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Presidential Documents

Title 3—

The President

Proclamation 6350 of October 8, 1991

National Disability Employment Awareness Month, 1991

By the President of the United States of America

A Proclamation

No nation, no matter how wealthy, has ever been able to afford the waste of human talent and potential. That is particularly true today, as the world economy continues to grow in size and sophistication. If the United States is to remain strong and prosperous in the increasingly technological, increasingly competitive global marketplace, then we must employ the creativity, energy, and skills of all of our citizens—including the millions of Americans with disabilities who are both eager and able to work.

The estimated 43 million Americans who have disabilities constitute a rich, yet too often untapped, national resource. Because each of these Americans, like every other citizen, is a full heir to the promise of "life, liberty, and the pursuit of happiness," our Nation has a solemn obligation to provide them with equal opportunities in education and employment. Doing so is not just in the best interest of the United States, it is also one of the best ways we can affirm our belief in the inherent rights and dignity of all individuals.

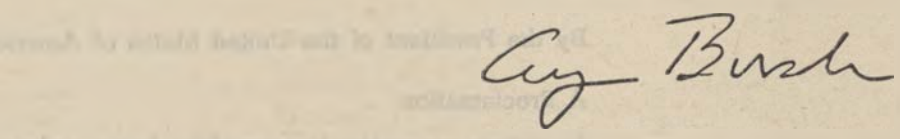
It is gratifying to report that we are already making progress. For example, the Americans with Disabilities Act required, among other measures, that five specific Federal agencies establish implementation regulations or guidelines. Most of those regulations—relating to employment, public accommodations, transportation, and communications—have been proposed. On July 26, 1991, the first anniversary of the Americans with Disabilities Act, I issued a memorandum to the heads of all Federal departments and agencies directing that the Federal Government serve as a model for the Nation by providing equal opportunities for persons with disabilities in recruitment, hiring, and career development.

Of course, while government can lead, it cannot do the job alone. The success of the Americans with Disabilities Act will depend on the express commitment and the sustained cooperation of public officials, educators, business and industry leaders, and persons with disabilities. A little over a year ago, when I signed into law the Americans with Disabilities Act of 1990, the world's first comprehensive declaration of equality for persons with disabilities, the United States became the international leader on this human rights issue. As other nations seek to bring their disabled citizens into the mainstream of national life, we can truly say that the Americans with Disabilities Act will affect the lives of millions of people around the globe.

The Congress, by joint resolution approved August 11, 1945, as amended (36 U.S.C. 155), has called for the designation of the month of October of each year as "National Disability Employment Awareness Month." This special month is a time for all Americans to recognize the unlimited potential of persons with disabilities and renew our determination to provide equal employment opportunities for them.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the month of October 1991 as National Disability Employment Awareness Month. I call on the people of the United States to continue working to guarantee for Americans with disabilities equal employment opportunities and all of the full rights and privileges of citizenship.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 91-24693
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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Docket No. FV-91-287]

Tomatoes Grown in Florida; Final Rule Revising Pack and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the three mandatory size classifications established for Florida tomatoes; authorizes the use of an additional container for shipping Florida tomatoes; and clarifies existing language in the handling regulation. This action should help promote the marketing of Florida tomatoes by reducing market uncertainties and assisting in the development of new markets.

EFFECTIVE DATE: October 10, 1991.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone (202) 447-5331.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 125 and Marketing Order No. 966 (7 CFR part 966), both as amended, regulating the handling of tomatoes grown in Florida. The marketing agreement and order are authorized under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This final rule has been reviewed by the Department of Agriculture in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 50 handlers of Florida tomatoes subject to regulation under the marketing order, and approximately 250 Florida tomato producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the handlers and producers of Florida tomatoes may be classified as small entities.

The Florida Tomato Committee (Committee), the agency responsible for local administration of the order, met on May 15, 1991, and unanimously recommended revising the size classification requirements included in the handling regulation to establish three mandatory size classifications for Florida tomatoes. The Committee also unanimously recommended authorizing the use of an additional container for shipping Florida tomatoes and clarifying existing language in the handling regulation.

Under the Florida tomato marketing order (order), tomatoes produced in the production area and shipped to fresh market channels are required to meet certain handling requirements specified in § 966.323. Current requirements include a minimum grade of U.S. No. 3 and a minimum size of 2$^{8}/_{32}$ inches in diameter. Pack and container requirements are also in effect for tomato shipments to destinations outside the regulated area, which is defined as all of the State except the panhandle. The current regulation establishes three tomato size designations which are defined as 6×7, 6×6, 5×6 and Larger. Each size designation is in terms of a minimum and maximum diameter. For example, 6×7 size tomatoes range from a minimum diameter of 2$^{8}/_{32}$ inches to a maximum diameter of 2$^{18}/_{32}$ inches. There is a $^{2}/_{32}$ inch overlap between the current size designations.

The Committee recommended that the size classifications in the handling regulation be revised to three mandatory size classifications (Medium, Large, and Extra Large), each with a $^{1}/_{32}$ inch overlap.

The United States Standards for Grades of Fresh Tomatoes (Standards) were recently revised to include four size designations (Small, Medium, Large and Extra Large), with a $^{1}/_{32}$ inch overlap between the different size classifications (56 FR 21913; effective October 1, 1991). These size designations are not factors in determining specific grades; that is, tomatoes could meet a U.S. No. 1 grade without regard to these provisions.

The Standards are in effect pursuant to the Agricultural Marketing Act of 1946. Under most circumstances, the use of the Standards is voluntary. One exception is when a Federal marketing order, such as that covering Florida tomatoes, requires a commodity to be graded in accordance with the Standards. The Committee believes that revising the size designations under the handling regulation to conform to the revised Standards would promote more uniform trading practices in the industry. Therefore, to assure that Florida tomatoes are packed and sold on the same basis as tomatoes produced in other producing areas on a national level, it is necessary to amend the Florida tomato handling regulation accordingly.

The Committee also recommended that a 10-pound container be added to the list of containers currently authorized for use under the handling regulation. Currently, the handling regulation provides authority for the use of 20- or 25-pound containers when shipping Florida tomatoes into interstate channels. Handlers have been shipping Florida tomatoes packed in 10-pound containers in intrastate markets. Receivers in interstate markets have expressed an interest in buying Florida

tomatoes in 10-pound containers. The 10-pound container has been well received by the trade within the regulated area. The Committee believes that authorizing the use of this container in interstate markets will provide buyers with a desired product and have a positive impact on the Florida tomato industry.

Section (a)(3)(i) of the current regulation requires that containers of Florida tomatoes comply with § 51.1863 of the Standards. This section of the Standards provides, in part, that when packages are marked with a net weight of 15 pounds or more, the net weight of the contents must be no less than the designated net weight, and no more than 2 pounds above that weight. Packages weighing less than 15 pounds are not covered by these requirements. The Committee requested that this standard weight requirement also apply to 10-pound containers for shipping tomatoes to interstate markets. The handling regulation is being amended accordingly.

Tomatoes grown outside the production area are not covered by the marketing order and therefore are not required to meet the established grade, size, pack and container requirements, even when packed in the production area. It has become a practice for many of the 50 Florida tomato handlers to haul unregulated tomatoes in bulk to packinghouses located in the production area and pack them for shipment into interstate commerce. According to the Committee, handlers are finding it less costly to haul tomatoes to production area packinghouses and prepare such tomatoes for market than to invest in new packinghouses outside the production area. There has been some confusion in the Florida tomato industry as to whether or not these tomatoes are covered under the marketing order. The Committee believes that revising the handling regulation to specify that only tomatoes produced in the production area must meet the applicable requirements would clarify the handling regulation for the industry. However, if production area tomatoes are commingled with unregulated tomatoes during the packing process, such tomatoes would lose their identity. There is no readily identifiable means to determine regulated tomatoes from unregulated tomatoes when commingled. In order to ensure that the applicable provisions of the handling regulation are met, the handling requirements will apply to all such commingled tomatoes.

Additional clarification of the handling regulation pertains to yellow-meated tomatoes. Yellow-meated tomatoes are exempt from the container net weight requirements, but must meet all other applicable requirements. However, there has been a misunderstanding in the Florida tomato industry among handlers who believe that the limited exemption provided for yellow-meated tomatoes from the container requirements also exempts such tomatoes from grade, size, pack and inspection requirements. The regulation is revised to clarify that yellow-meated tomatoes must meet the established grade, size, pack and inspection requirements.

Section 8(e) of the Act requires that whenever grade, size, quality or maturity requirements are in effect for tomatoes under a domestic marketing order, imported tomatoes must meet the same or comparable requirements. However, this rule does not make any changes in the minimum grade and size requirements under the domestic handling regulation. Further, the Act does not authorize the imposition of container and pack requirements on imports. Therefore, no change is necessary in the tomato import regulation as a result of this action.

A proposed rule was published in the August 28, 1991, **Federal Register** (56 FR 42544) and interested persons had until September 27, 1991, to submit written comments. The Committee filed a comment in support of the proposed rule with a recommendation that paragraph (a)(2)(iii) be revised to include the specific abbreviations that may be used when listing size designations on containers of tomatoes. The Committee believes that requiring handlers to use one of three specified abbreviations (Med., Lg., or Ex/Lg) would provide for uniform labeling practices in the Florida tomato industry and reduce market uncertainty.

The provisions of this final rule are the same as those which appeared in the proposed rule except that paragraph (a)(2)(iii) has been changed to clarify which abbreviations can be used in labeling containers of tomatoes.

Another comment was submitted by Mr. Aron L. Johnson, Mulberry, Florida, who feels that it is unfair that only part of the State of Florida is regulated by a Federal marketing order.

Marketing orders are tailored to the needs of the individual industries. Under the Act, a Federal marketing order must be limited to the smallest practicable area. This area may be a single State, a group of States, or part of a State. In the case of Florida, the production area covers the southern half of the State, while the portion of the State which is regulated, covers all of the State except the panhandle. In accordance with the Act, the limits of the regulated area were extensively discussed during the public hearing held during the promulgation of this order. The order issued by the Secretary reflects the evidence presented at that hearing, and the geographical extent of the marketing order cannot be reconsidered in this proceeding.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the shipping season starts in early October and this rule should be implemented as soon as possible. Further, handlers are aware of this rule, which was recommended by the Committee at a public meeting.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 966.323 is amended by revising the introductory text and paragraphs (a)(1), (a)(2)(i), (a)(2)(iii), (a)(3)(i) and (d)(1) to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 966.323 Handling regulation.

From October 10 through June 30 of each season, except as provided in paragraphs (b) and (d) of this section, no person shall handle any lot of tomatoes produced in the production area for shipment outside the regulated area unless it meets the requirements of paragraph (a) of this section, and no person shall handle any lot of tomatoes for shipment within the regulated area unless it meets the requirements of

paragraphs (a)(1), (a)(2)(i), and (a)(4) of this section.

(a) *Grade, size, container and inspection requirements*—(1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2, or U.S. No. 3, of the U.S. Standards for Fresh Tomatoes, except that all shipments of Medium size tomatoes must grade U.S. No. 2 or better. When not more than 15 percent of the tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than 1 percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) All tomatoes packed by a handler shall be at least 2⅝₃₂ inches in diameter. Tomatoes shipped outside the regulated area shall also be sized with proper equipment in one or more of the following ranges of diameters. Measurements of diameters shall be in accordance with the methods prescribed in § 51.1859 of the U.S. Standards for Grades of Fresh Tomatoes.

Size classification	Inches minimum diameter	Maximum diameter
Medium	2⅝₃₂	2¹⁷⁄₃₂
Large	2¹⁶⁄₃₂	2²⁵⁄₃₂
Extra Large	2²⁴⁄₃₂	

* * * * *

(2) * * *

(iii) Only Medium, Large, Extra Large or the specified abbreviations of same (Med., Lg., or Ex/Lg) may be used to indicate the above listed size designations on containers of tomatoes.

* * * * *

(3) *Containers.* (i) All tomatoes packed by a registered handler shall be packed in containers of 10, 20, and 25 pounds designated net weights. The net weight of the contents shall not be less than the designated net weight and shall not exceed the designated net weight by more than two pounds. Section 51.1863(b) of the U.S. Tomato Standards shall apply to all containers.

* * * * *

(d) *Exemption*—(1) *For types.* The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top, and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes. Yellow-meated tomatoes are exempt from the container net weight requirements specified in paragraph (a)(3)(i) of this section, but must meet the other requirements of this section.

* * * * *

Dated: October 7, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91-24478 Filed 10-9-91; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 981

[FV-90-185 and FV-91-217]

Almonds Grown in California; Corrections

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rules; corrections.

SUMMARY: This document corrects errors in two separate final rules. The first rule established salable, reserve, and export percentages for California almonds for the 1990–91 crop year. This rule appeared in the **Federal Register** on September 21, 1990 (55 FR 38793). This action corrects an inaccurate statement of the statutory authority for that rule. The second rule extended the date by which handlers of California almonds must satisfy their 1990–91 crop year reserve disposition obligations. This rule was published in the **Federal Register** on March 14, 1991 (56 FR 10793). This action corrects the designation of a paragraph of regulatory text which was added by that rule.

EFFECTIVE DATE: November 12 1991.

FOR FURTHER INFORMATION CONTACT: Sonia N. Jimenez, Marketing Specialist, MOAB, F&V, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 475–3923.

SUPPLEMENTARY INFORMATION: This action corrects an inaccurate statement of statutory authority which appeared in the supplementary information section of the final rule published in the **Federal Register** on September 21, 1990. In that rule, the authority for the establishment of salable and reserve percentages under marketing agreement and Order No. 981 (7 CFR part 981) was inadvertently and inaccurately cited as sections 608c(6) (C) and (D) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act. The correct authority citation is sections 608c(6) (A) and (E) of the Act. This authority was discussed at length in the rulemaking record concerning the amendment of the almond marketing order, See notice of Recommended Decision, 35 FR 7428, May 13, 1970, and Decision and Referendum Order, 35 FR 9288, June 13, 1970. Therefore, the following correction is made to the September 21, 1990, rule (55 FR 38793).

1. The third full paragraph in the second column on page 38796, which begins with the sentence "Sections 608c(6) (C) and (D) of the Act provide the authority for the establishment of salable and reserve percentages under the almond marketing order." is revised to read as follows:

"Section 608c(6)(A) of the Act provides the authority for the establishment of salable and reserve percentages under the almond marketing order by limiting the total quantity of almonds which may be marketed in or transported to any or all markets in the current of interstate or foreign commerce during any specified period by all handlers of almonds. Section 608c(6)(E) provides for the establishment of the reserve pool for almonds and for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein. Contrary to the implication of the comment filed, sections 608c(6) (C) and (D) are not the authority citations for this program. Section 608c(6)(C) provides for the issuance of pro-rate volume control regulations which have no applicability to this marketing order. Until 1970 nonsalable almonds were designated as surplus almonds and disposed of under section 608c(6)(D). In 1970 the surplus designation was changed to a reserve designation because of the change in the export situation. This rule which establishes salable and reserve percentages for the 1990–91 crop year conforms to the provisions of the Act."

This action also corrects the designation of a paragraph of regulatory text which was added by the rule published in the **Federal Register** on March 14, 1991. The paragraph was inadvertently designated as paragraph (c) of § 981.467; the paragraph should have been designated as paragraph (d) of § 981.467. Therefore, the following correction is made to the March 14, 1991, rule [56 FR 10793]:

PART 981—ALMONDS GROWN IN CALIFORNIA

Subpart—Administrative Rules and Regulations

2. On page 10794, second column, item number 2, both references to paragraph (c) should be changed to paragraph (d). As corrected, item number 2 should read as follows:

"2. Section 981.467 is amended by adding a new paragraph (d) to read as follows:

§ 981.467 Disposition in reserve outlets by handlers.

* * * * *

(d) For the 1990–91 crop year only, any reserve almonds remaining unsold as of December 31, 1991, shall be disposed of by the Board as soon as practicable through the most readily available reserve outlets."

Dated: October 7, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–24479 Filed 10–9–91; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 989

[FV–91–428FR]

Raisins Produced From Grapes Grown in CA; Revision of the Substandard Dockage System for All Varietal Types of Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule eliminates for a period of one year the upper limit for substandard raisins in lots of standard raisins of all varietal types under the marketing order covering raisins produced from grapes grown in California. This action is needed because the raisin industry predicts that a relatively high percentage of the 1991–92 crop will not meet the current upper limit for the amount of substandard raisins allowed in lots of standard raisins. This revision was unanimously recommended by the Raisin Administrative Committee (RAC), which is responsible for local administration of the order. The purpose of this action is to reduce the number of lots of raisins returned by handlers to producers or reconditioned by handlers at the producers' expense.

EFFECTIVE DATE: October 10, 1991. Comments which are received by November 12, 1991, will be considered prior to any finalization of this interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456.

Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Richard Lower, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2524–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 475–3861.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Order No. 989 [7 CFR part 989], both as amended, regulating the handling of raisins produced from grapes grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This rule has been reviewed by the U.S. Department of Agriculture under Executive Order 12291 and Departmental Regulations No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 23 handlers who are subject to regulation under the raisin marketing order and approximately 5,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. A majority of raisin producers and a minority of raisin handlers may be classified as small entities.

This interim final rule revises a portion of the supplementary regulations of the raisin marketing order. This action was unanimously recommended by the RAC at its August 15, 1991, meeting.

The marketing order regulations provide that handlers may acquire under an agreement with a producer, any lot of natural (sun-dried) seedless, golden seedless, dipped seedless, oleate and related seedless, Monukka, and other seedless raisins which contain from 5.1 percent to 10.0 percent, by weight, of substandard raisins under a weight dockage system. A handler may also acquire, subject to prior agreement, standard raisins of any lot of Muscat (including other raisins with seeds), Sultana, and Zante currant raisins containing from 12.1 percent to 17.0 percent, by weight, of substandard raisins under a weight dockage system. The creditable weight of each lot of raisins acquired by handlers under the substandard dockage system is obtained by multiplying the applicable net weight of the lot of raisins by the applicable dockage factors in the dockage tables in section 989.212. These factors reduce the weight of the raisin lots by an amount approximating the weight of the raisins needed to be removed in order for the remainder of the lot to meet minimum grade requirements. The weight determined in this manner represents the creditable weight of the raisins which is used as the basis for payments to producers by handlers. Those raisins that fail to meet the established substandard tolerance levels (10 percent or 17 percent depending on the varietal type) are returned to the producer or reconditioned by the handler (at the producer's expense) to bring the lot up to acceptable quality standards.

The substandard dockage system was established in 1985 to encourage producers to deliver high quality raisins to handlers for processing. This season, however, extreme weather conditions have seriously affected the quality of the crop, and the RAC predicts that a relatively high percentage of the 1991–92 crop will not meet the upper limit (10 percent or 17 percent, depending on the varietal type) for the amount of

substandard raisins permitted in lots of standard raisins. Normally, approximately 2 to 6 percent of a crop is substandard. This season the RAC estimates that the amount of substandard raisins will average about 14.5 percent of the crop. Therefore, the RAC has recommended that, for the 1991–92 crop year only, a handler may acquire, under an agreement with a producer, lots of raisins containing more than 10 percent or 17 percent, depending on the varietal type, substandard raisins. Rather than return those lots to the producer, the handler will apply the weight dockage factors contained in § 989.212 (described above) to such lots of raisins.

For producers and handlers electing to use the relaxed upper limit for substandard raisins, the burden of removing substandard fruit will be shifted from the producer to the handler. However, handlers can more efficiently and economically manage the situation since they already have equipment which is designed to remove substandard fruit. This action would also eliminate the cost to producers for hauling such lots from the handlers' premises, for reconditioning, for returning such reconditioned lots to handlers, and for reinspection of the lots.

It is expected that this action will facilitate the delivery and handling of the 1991–92 crop and minimize the additional handling expenses caused by the lower quality of this year's crop for both producers and handlers, particularly for small producers. Producers will be able to deliver their 1991–92 crop raisins to the handlers, and the handlers can receive them and remove the excess substandard fruit during normal pre-grading or processing.

The Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of the information and recommendations submitted by the RAC and other available information, it is found that this interim final rule will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that it is impractical, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes requirements on producers and handlers; (2) this action was recommended at a public meeting; (3) this action is non-controversial; and (4) it is desirable to have this action cover as much of the 1991–92 crop as possible and deliveries to handlers are expected to begin by early October.

List of Subjects in 7 CFR Part 989

California, Grapes, Marketing agreements and orders, Raisins.

For the reasons set forth in the preamble, 7 CFR part 989 is revised to read as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 is continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674.

Subpart—Supplementary Regulations

2. Section 989.212 is revised to read as follows: *[This section will appear in the annual Code of Federal Regulations].*

§ 989.212 Substandard dockage.

(a) *General.* Subject to prior agreement between handler and tenderer, natural (sun-dried) seedless, golden seedless, dipped seedless, oleate and related seedless, Monukka, and other seedless raisins containing from 5.1 through 10.0 percent, by weight, of substandard raisins may be acquired by a handler under a weight dockage system: *Provided,* that, for the 1991–92 crop year, such raisins containing in excess of 10.0 percent substandard raisins, by weight, may be acquired by a handler under a weight dockage system. A handler also may, subject to prior agreement, acquire as standard raisins any lot of Muscat (including other raisins with seeds), Sultana, and Zante currant raisins containing from 12.1 percent through 17.0 percent, by weight, of substandard raisins under a weight dockage system: *Provided,* that, for the 1991–92 crop year, such raisins containing in excess of 17.0 percent substandard raisins, by weight, may be acquired by a handler under a weight dockage system. The creditable weight of each lot of raisins acquired under the substandard dockage system shall be obtained by multiplying the net weight of the lot of raisins by the applicable dockage factor from the appropriate dockage table prescribed in paragraph (b) or (c) of this section.

(b) *Substandard dockage table applicable to Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless, Monukka, and Other Seedless raisins.*

Percent substandard	Dockage factor
5.0 or less	(1)
5.1	.999
5.2	.998
5.3	.997
5.4	.996
5.5	.995

[1] No dockage.

NOTE: Percentage in excess of that last percentage shown in the table shall be expressed in the same increments as the foregoing, and the dockage factor for each such increment shall be .001 less than the dockage factor for the preceding increment. Except for the 1991–92 crop year, there is no dockage factor for deliveries in excess of 10 percent substandard.

(c) *Substandard dockage table applicable to Muscat (including other raisins with seeds), Sultana and Zante Current raisins.*

Precent substandard	Dockage factor
12.0 or less	(1)
12.1	.999
12.2	.998
12.3	.997
12.4	.996
12.5	.995

[1] No dockage.

NOTE: Percentages in excess of the last percentage shown in the table shall be expressed in the same increments as the foregoing, and the dockage factor for each such increment shall be .001 less than the dockage for the preceding increment. Except for the 1991–92 crop year, there is no dockage factor for deliveries in excess of 17 percent substandard.

Dated: October 7, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–24480 Filed 10–9–91; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulation H, Regulation Y; Docket No. R–0709]

Capital; Capital Adequacy Guidelines

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final guidelines.

SUMMARY: On October 12, 1990, the Board proposed for public comment certain modifications, clarifications, and technical changes to its risk-based capital guidelines. The comment period for the Federal Reserve's proposal ended December 17, 1990. The Board received comments addressing various aspects of the proposed modifications and clarifications from 26 commenters.

Based upon the comments received, and further consideration of the issues involved, the Board is now issuing in

final form the modifications, clarifications, and technical changes to the Board's risk-based capital guidelines. The modifications and technical changes relate to the: (1) Treatment of certain assets sold with recourse; (2) redemption of perpetual preferred stock; (3) treatment of supervisory goodwill in the definition of capital; and (4) treatment of claims on non-OECD central banks.

The purpose of these modifications, clarifications, and technical changes is to make the Board's risk-based capital framework consistent with recent international interpretations of the risk-based capital accord (Basle Accord) and with the current or proposed treatment of certain items by the other federal banking agencies. In addition, some of the proposed modifications to the language of the Board's risk-based capital guidelines are intended to bring the guidelines into closer conformity with the risks associated with certain transactions and with current Federal Reserve supervisory practices.

EFFECTIVE DATE: The modifications, clarifications, and technical changes to the Federal Reserve Board's risk-based capital guidelines will be effective November 8, 1991.

FOR FURTHER INFORMATION CONTACT: Roger T. Cole, Assistant Director (202/452–2618), Rhoger H. Pugh, Manager (202/728–5883), Thomas R. Boemio, Supervisory Financial Analyst (202/452–2982), Division of Banking Supervision and Regulation; and Michael J. O'Rourke, Senior Attorney (202/452–3288), Legal Division. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

I. Background

Since the Board initially published its risk-based capital guidelines, some questions have arisen concerning how certain recourse transactions involving credit risk are to be captured by the framework. In addition, certain interpretations and clarifications have emerged from international and domestic discussions among supervisory authorities. Finally, the enactment of the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989 (FIRREA) affects the treatment of goodwill for capital purposes.

On October 12, 1990, the Board accordingly proposed for public comment certain modifications, clarifications, and technical changes to its risk-based capital guidelines. The comment period for the Federal Reserve's proposal ended December 17, 1990. The Board received comments addressing various aspects of the proposed modifications and clarifications from 26 commenters.

After reviewing the comments received and further consideration of the issues involved, the Board is now issuing in final form the modifications, clarifications, and technical changes to the Board's risk-based capital guidelines. The modifications and clarifications outlined in this notice are identical to those originally proposed and will: (1) Ensure, consistent with the general treatment of recourse and the objectives of the risk-based capital framework, that certain off-balance sheet credit exposures, particularly sales of mortgages with recourse, are adequately captured in the risk-based capital framework; (2) implement interpretations agreed to by supervisory authorities represented on the Basle Committee on Supervision; and (3) foster consistency between the Federal Reserve's treatment of certain transactions for risk-based capital purposes and the current or proposed treatment of such transactions by the other federal banking agencies.

II. Modifications, Clarifications, and Technical Changes

1. Treatment of Sales of Assets (Including Residential Mortgages) With Recourse

It is a basic tenet of the Basle Accord, and of the risk-based capital guidelines of the three federal banking agencies, that all forms of credit risk, whether on- or off-balance sheet, are to be taken into account in calculating an institution's risk-based capital ratio.[1] In view of this principle, past practice with respect to recourse transactions, and questions that have arisen regarding the application of the risk-based guidelines to the sale of certain assets with recourse, the Federal Reserve Board is modifying and clarifying the language of its risk-based capital guidelines. The purpose of this step is to ensure, consistent with the overall objectives of the risk-based capital framework and the general treatment of recourse, that credit risks stemming from certain mortgage recourse sales are subject to an appropriate capital charge.

In general, so-called recourse "sales" allow the buyer of a loan or pools of loans to put back to the seller, that is, require the seller to repurchase, loans that are not performing as agreed. This, in effect, means that the credit risk associated with the loans remains with the "seller." The modifications and clarifications to the language of the risk-based capital guidelines pertain to the treatment for risk-based capital purposes of the sale of assets with recourse, primarily the sale of residential mortgages with recourse.

In defining assets sold with recourse for risk-based capital purposes, the U.S. banking agencies incorporated the longstanding "general rule" definition contained in the commercial bank Call Report instructions. This general rule states that a transfer of assets is to be reported as a true sale, and, therefore, taken off the balance sheet, only if the transferring (that is, selling) institution (i) retains no risk of loss from the assets transferred resulting from any cause, including a recourse provision, and (ii) has no obligation to any party for the payment of principal or interest on the assets transferred.

Under the longstanding general rule, a transfer involving any retention by the seller of recourse or risk of loss, even if limited under the terms of the transfer agreement, is considered a borrowing transaction, as opposed to a sale, and the entire amount of the assets "transferred" must remain on the books of the "selling" institution. The general rule was intentionally adopted by the banking agencies for supervisory policy reasons and has been in effect for reporting and primary capital (leverage) ratio purposes for many years. The principal reason for adopting the rule was to ensure that, as a general matter, institutions retaining credit risk through recourse provisions would be required under capital-to-total assets (leverage) ratios to maintain capital against these transactions.

In 1985, the banking agencies considered adopting FASB 77 for regulatory reporting purposes in lieu of the general Call Report rule.[2] However, given capital adequacy considerations and other supervisory concerns, the banking agencies expressly decided not to adopt FASB 77. Rather, the agencies, under the auspices of the Federal

[1] In order to conform to the principles established in the Basle Accord, the Board's risk-based capital guidelines cover credit risks retained when an institution sells an asset, obtained in the issuance of a financial guarantee, or acquired in any other manner. This could be done directly through the issuance of any form of direct credit enhancement or indirectly through the acquisition of an asset or obligation.

[2] GAAP, as set forth in Financial Accounting Standards Board Statement No. 77 (FASB 77), permits a transfer of assets with recourse to be treated as a sale if: (a) Control of the future economic benefits is surrendered; (b) the amount of the seller's obligation under the recourse provisions can be reasonably estimated; and (c) the assets cannot be returned to the seller except pursuant to the recourse provisions. When sales treatment is accorded, the seller's estimated liability for any loss under the recourse provisions must be provided for.

Financial Institutions Examination Council (FFIEC), chose to reaffirm the general Call Report rule for bank reporting and leverage ratio purposes.

The regulatory (Call Report) definition of sales of assets with recourse in the special case of pools of residential mortgages differs from the general rule just described. In particular, the Call Report instructions state that for regulatory reporting purposes, any transfers of mortgage loan pools under government programs (e.g., the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC)) will be treated as sales. It should be noted that such treatment is related to the reporting of these items and was not intended to preclude consideration of the risks associated with the transactions in assessing a banking organization's overall capital adequacy. In addition, the Call Report instructions state that transfers of pools of residential mortgages to private obligors (not under the government programs) are to be reported as sales when the selling bank does not retain any significant risk of loss.[3]

These regulatory reporting definitions were developed at a time when the disposition or transfer of residential mortgages under the government programs involved little or no recourse and the amount of possible loss under the private transactions was considered to be insignificant. Thus, no major policy concerns existed regarding the possibility that the "selling" party in these transactions could retain a significant measure of credit risk that was not adequately backed by capital. As discussed below, however, this situation has changed over time.

The Board's risk-based capital guidelines incorporated the general Call Report definition of sales of assets with recourse and also made specific reference to the Call Report treatment of the sale of 1-to-4 family residential mortgages with recourse. The broad intent of the guidelines was to incorporate into the risk-based capital framework the supervisory principle implicit in the general Call Report rule, that is, if the seller retains any risk of loss, the transaction would require capital support. However, questions have arisen regarding whether the original language in the guidelines achieved this objective with regard to the specific case of residential mortgage sales, and some banking organizations appear to have interpreted the reference to the Call Report treatment of residential mortgage recourse sales as excluding these transactions from risk-based capital calculations.

The exclusion from capital requirements of a broad class of transactions with a significant amount of credit risk would be inconsistent with the principles of the risk-based capital framework and, as a matter of general policy, was not intended when the Board issued its risk-based capital guidelines. In this regard, it should be noted that the Federal Reserve's risk-based capital guidelines contain the statement that "* * * asset sales with recourse (to the extent not included on the balance sheet) * * * are converted at 100 percent." In general, this would have the effect of applying a capital charge to recourse transactions.

The treatment of asset sales with recourse, including the transfer of residential mortgages with recourse, is of particular importance since it has become apparent that the "sales" of residential mortgages under the government programs can involve either no recourse, or recourse of up to 100 percent to the "seller"—a distinct departure from the situation that existed when the regulatory reporting definition of "residential mortgages sold with recourse" was initially adopted. Thus, the incorporation in the risk-based capital guidelines of the Call Report definition of residential mortgages sold with recourse has been interpreted by some as allowing sales of residential mortgages under the government programs with significant recourse to escape an explicit capital charge. Such an interpretation appears to have been based, in part, on bank regulatory reporting treatment of residential mortgage recourse sales and on past supervisory practice under the capital-to-total assets leverage ratio.

If such treatment were permitted, however, banking organizations would not necessarily maintain sufficient capital to support the credit risks associated with recourse arrangements, even though these risks could be the same as if the organizations continued to hold the assets directly on their books. For this reason, the Federal Reserve has modified and clarified the language in the risk-based capital guidelines to ensure that 1-to-4 family residential mortgage sales with recourse are not exempt from an appropriate explicit capital charge.

To achieve this objective, the modified language provides that, for risk-based capital purposes, assets sold with recourse (that are not already on the balance sheet), including residential mortgages, are to be treated by the selling institution like any other direct credit substitute or financial guarantee. This would mean that the general Call Report definition of recourse would be applied to residential mortgages for risk-based capital purposes. Under this approach, such off-balance sheet obligations would be converted at 100 percent to an on-balance sheet credit equivalent amount and assigned to the appropriate risk category, typically 50 percent in the case of residential mortgages. Thus, with the exception of the limited recourse exemption discussed below, applying the general rule to residential mortgages would require a 4 percent capital charge on the entire amount of residential mortgage loans sold with recourse, regardless of the amount of the recourse obligation.

The vast majority of the commenters, i.e., 92 percent or 23 of the 25 commenters that addressed this issue, opposed the incorporation of language into the risk-based capital guidelines that applies the general recourse rule to residential mortgages sold with recourse. Eight commenters stated that the Board should not clarify the treatment of residential mortgage recourse sales until an interagency review of recourse transactions currently being conducted by the FFIEC is completed. In addition, eight respondents expressed their view that the clarification constituted a change to existing practice. In this regard, it should be noted that most of the bank holding companies and banks engaged in selling residential mortgages with recourse appear to be treating such sales in a manner consistent with the treatment set forth in the modified language of the guidelines.

Seventeen of the 23 respondents that opposed the clarification voiced their belief that generally accepted accounting principles (GAAP) should be adopted as the appropriate capital treatment for assets sold with recourse. Thus, if the transaction is reported as a sale for reporting purposes in accordance with GAAP, then a reserve would be established at the time of sale for any probable losses. The establishment of the reserve would directly reduce earnings and Tier 1 capital. Six commenters added that contractual recourse in excess of probable losses should be treated as any other off-balance sheet guarantee or

[3] The Call Report instructions state that in a private transaction, recourse is considered significant if at the time of the transfer the maximum contractual exposure under the recourse provision (or through retention of a subordinated interest in the mortgages) is greater than the amount of probable loss that the bank has reasonably estimated it will incur on the transferred mortgages.

standby letter of credit under the risk-based capital guidelines.

The approach adopted in these final guidelines would not mean that banking organizations would be unable to sell or securitize residential mortgages, or that they would be unable to provide limited recourse or certain other credit enhancements to support sales of mortgage pools. For example, banking organizations always have the option to sell assets without recourse, thereby avoiding a capital charge altogether. Moreover, there are several ways banking organizations can provide credit enhancements and still sell assets without recourse, or with limited recourse, and either incur no capital charge or a reduced capital charge.

First, banking organizations can establish a spread account that provides a cushion of protection to the purchasers of securitized assets while at the same time insulating the selling banking organization from losses arising from the transaction. Funds can be placed in the account directly by the selling institution through a charge against earnings or capital, or can accumulate in the account based upon the difference between the rate paid to the purchasers of the securities and the higher yield earned on the underlying assets. Under these arrangements, any losses on the underlying assets would be charged against the spread account. So long as such losses can only be charged against the spread account and cannot adversely affect the originating bank's capital or future earnings, no additional capital would be charged for transactions employing this technique. These spread accounts have been used successfully to securitize credit cards and automobile receivables. Moreover, these arrangements can be supplemented or enhanced by the originating or selling bank's purchase of a standby letter of credit from a third party guarantor in order to protect the purchasers from losses on the securitized assets.

Second, transactions can be structured in such a way that the seller and the buyer proportionately share in any losses, that is, on a pro rata basis. For example, if a bank sells assets of $1,000,000 and the buyer agrees to absorb 90 percent of any losses while the seller will absorb the other 10 percent, the selling bank would only have to maintain capital against $100,000, as opposed to the entire amount of the asset transferred.

Third, with respect to the sale of mortgages, a limited recourse exception has been approved by the Board for those transactions where the maximum possible recourse obligation, at the time of the transfer, is less than the expected loss on the transferred assets and the banking organization establishes and maintains a liability or specifically identified (non-capital) reserve for an amount equal to the maximum loss possible under the recourse provision. The maximum possible loss under this recourse arrangement would in effect be deducted from capital "up front," and the originating or selling institution would not be subject to further loss. Under such conditions, no additional capital will be required and the amount of the liability created to cover the maximum possible loss under the recourse agreement will not be included in capital.

Eleven respondents opposed the limited recourse exception because they were of the opinion that GAAP would be a more appropriate method to measure the necessary amount of capital required against a limited recourse transaction. One additional commenter addressed the limited recourse issue and supported the Board's proposal since any losses under the recourse provisions would be provided for at the time that the mortgages are sold.

Consistent with the spirit of the Basle Accord and the fact that bank holding companies are engaged in bank-related activities, the Federal Reserve has applied risk-based capital requirements similar to those of the Basle framework to holding companies on a consolidated basis. In view of (i) the greater flexibility that the Board has in applying the framework to bank holding companies, (ii) the original language of the guidelines and the fact that this language, in conjunction with bank regulatory reporting requirements and prior supervisory practice, created ambiguity regarding the treatment of certain recourse sales, and (iii) the fact that the proposed modifications and clarifications could have a significant impact on some holding companies, the Board invited comments on the appropriateness of a brief transition or phase-in arrangement. Such an arrangement would provide for the phasing in of the capital requirements pertaining to residential mortgage recourse sales by bank holding companies completed prior to the October 12, 1990 publication of the **Federal Register** Notice. Since that date, banking organizations have been on notice that the Board intended to modify and clarify the language of the risk-based capital guidelines to ensure that capital is held against mortgage recourse sales.

The issue of a phase-in for bank holding companies with respect to the treatment of residential mortgages sold with recourse was discussed by eight respondents. Only one commenter agreed that a phase-in was appropriate. The other seven respondents argued that existing transactions should be grandfathered and that the clarification be applied prospectively to future residential mortgage recourse sales. Five of the commenters implied or expressly stated that any grandfathering provision that may be granted to bank holding companies should also be extended to banks.

In adopting the final guidelines, the Board has determined that state member banks should be immediately required to back their mortgage recourse transactions with capital. The Board believes that recourse transactions require capital backing and that such treatment for commercial banks is consistent with the intent of the Basle Accord, with the current or proposed policies of the other U.S. federal banking agencies, and with the policies of supervisors in foreign countries whose banks participate in similar transactions.

These final guidelines do not incorporate a grandfather arrangement, which would, in effect, permanently exempt the credit risk associated with mortgage recourse sales by some organizations from an appropriate capital charge. As noted above, this would be contrary to the intent of the Basle Accord and the Federal Reserve's risk-based capital guidelines.

While the Basle Accord applies to commercial banks, it explicitly recognizes that bank ownership structures should not be allowed to weaken the capital positions of the banks they own or expose those banks to undue risks. Consistent with this principle, the fact that bank holding companies are engaged in activities closely related to banking, and the longstanding application of capital ratios to holding companies on a consolidated basis, the Federal Reserve has also applied risk-based capital requirements to bank holding companies. In view of the greater flexibility that the Board has in applying the risk-based capital framework to bank holding companies, the potential ambiguity of the language in the original capital guidelines, the confusion stemming from prior practice regarding certain recourse transactions, and the fact that the modifications and clarifications could have a significant impact on some holding companies, the Board approved an optional temporary phase-in arrangement for the inclusion of mortgages sold with recourse in the

calculation of the supervisory risk-based capital ratios for bank holding companies that in good faith interpreted or understood the risk-based capital guidelines to exclude these transactions from a capital charge.[4]

This phase-in alternative would apply only to those mortgages sold with recourse prior to October 12, 1990, the date upon which banking organizations regulated by the Board were put on notice that the Board intended to modify and clarify the language regarding this issue.[5] All residential mortgage recourse sales completed after the October 12th date are to be fully and immediately included in the calculation of the risk-based capital ratio when the modifications and clarifications become effective.

2. Redemption of Perpetual Preferred Stock

The Board's risk-based capital guidelines indicate that banking organizations should consult with the Federal Reserve before redeeming permanent equity instruments or debt capital instruments prior to their stated maturity. A limited exception to this guideline is provided for instruments redeemed with the proceeds of a higher form of capital, if the capital position of the banking organization is deemed fully adequate by the Federal Reserve. As a practical matter, it has long been expected that banking organizations would consult with the Federal Reserve when contemplating redemptions of core capital in order to give the Federal Reserve an opportunity to determine the impact of the redemption on the organization's financial condition.

The Basle Committee on Supervision has arrived at a consensus that the redemption of perpetual preferred stock should only be permitted at the issuer's option and only with the prior approval of the supervisory authority. This approach is not inconsistent with the intent of the Federal Reserve's current practice of calling for consultation, and is consistent with requirements established by the Board in connection with the review of some capital plans submitted by bank holding companies. In this connection, the Federal Reserve has stipulated that any redemption of perpetual preferred stock could be only at the bank holding companies' option and only with prior approval from the Federal Reserve.

Nine respondents addressed the proposed amendment to the language of the risk-based capital guidelines that would require prior Board approval when redeeming perpetual preferred stock. Five of the commenters opposed the requirement stating that it would restrict management's ability to manage the institution. Also, four of these commenters thought that requiring prior Board approval before redeeming perpetual preferred stock is particularly inappropriate for organizations that meet the current capital standards. Of the other four respondents, three were in agreement with the Board's proposal while one had no objection.

As a result of the Basle interpretation, the Federal Reserve Board has amended the language of its risk-based capital guidelines to clarify that the approval of the Board is necessary prior to the redemption of any perpetual preferred stock in order to qualify as capital.

3. Treatment of Supervisory Goodwill

Currently, the Board's risk-based capital guidelines, consistent with the Basle Accord, require that goodwill be deducted from Tier 1 capital. However, the guidelines contain a footnote that was intended to give the Federal Reserve the option to make an exception in those very limited situations in which banking organizations acquired goodwill in the past in connection with mergers with troubled or failed depository institutions. The wording of the footnote could also be interpreted as accommodating the possible future inclusion in capital of goodwill stemming from the merger of troubled or failed institutions. As a matter of policy, the Federal Reserve does not give credit for goodwill in assessing the capital of institutions involved in supervisory mergers. Indeed, institutions making acquisitions are normally required to exceed minimum capital levels without undue reliance on intangible assets, particularly goodwill. In addition, FIRREA prohibits the regulatory agencies from allowing goodwill to be included in the calculation of capital if the goodwill was acquired after April 12, 1989.

Five of the six commenters addressing the deletion of a footnote giving the Board the option to make an exception to allow supervisory goodwill in capital either supported or did not object to the removal of the footnote. One respondent agreed that the footnote should be clarified, although they indicated that the value of core deposit intangibles or supervisory goodwill should not be deducted from Tier 1 capital.

The Board has deleted the footnote that appears to suggest the possibility that supervisory goodwill acquired in the future could be included in the definition of capital for risk-based capital purposes.

4. Claims on Central Banks

The Basle Accord assigns all long- and short-term claims on OECD commercial banks and short-term claims on non-OECD commercial banks to the 20 percent risk category. On the other hand, long-term claims on non-OECD commercial banks, and claims on non-OECD central governments that involve an element of transfer risk are assigned to the 100 percent risk category. Claims on OECD central governments and central banks are assigned to the zero percent risk category.

In promulgating their risk-based capital guidelines, the U.S. banking agencies' allowed claims on non-OECD central banks to be in the same 20 percent risk category as short-term claims on non-OECD commercial banks on the assumption that claims on central banks should not be in a higher category than claims on commercial banks. However, further discussions among international supervisors have led to a consensus that claims on central banks should be in the same risk category as claims on the corresponding central governments. This clarification will have little impact on OECD central banks since claims on OECD central banks and governments are already assigned to the zero percent risk category. On the other hand, the Basle Committee on Supervision has held that claims on non-OECD central banks that could involve an element of transfer risk should be assigned to the same 100 percent risk category as claims on their central governments that involve transfer risk.

[4] The phase-in should commence as soon as possible after the effective date of this final rule, but in no event later than December 31, 1991, and ending no later than June 30, 1993. Under this phase-in, 1/3 of the outstanding principal balance of all recourse mortgage sales completed before October 12, 1990 would be included in the calculation of the risk-based capital ratio at the beginning of the phase-in. As of June 30, 1992, ⅔ of the remaining outstanding principal balance of sales consummated prior to the date of October 12, 1990 would be included in the risk-based capital ratio calculation. Finally, as of June 30, 1993, the entire amount of the outstanding principal balance of recourse mortgage sales would be included in the calculation. Such arrangements should be discussed between a bank holding company and the appropriate Federal Reserve Bank prior to the holding company availing itself of the phase-in option. Any bank holding company that qualifies to utilize this option may phase-in its mortgage recourse sales into the risk-based capital calculation at a faster rate if it so desires.

[5] In providing for this optional phase-in arrangement, the Board notes that GAAP requires banking organizations that have sold assets with recourse to provide amounts for the estimated loss in these transactions. Under current practice, amounts set aside to cover the estimated losses in mortgage recourse sales are generally included in a liability account or a specific reserve—neither of which is included in the definition of capital.

This change, which is necessary to ensure consistency with the Basle framework, has the practical effect of moving claims on non-OECD central banks that involve an element of transfer risk from the 20 percent to the 100 percent risk category. As already noted, this has no effect on the treatment of claims on central banks in OECD countries since all claims on these institutions are already assigned to the same risk category as OECD central governments, that is, to the zero percent risk category.

Four of the five respondents discussing this issue agreed with the proposed realignment. The sole dissenter expressed its belief that the change would disrupt to the international interbank market.

As a result of the Basle interpretation, the Federal Reserve Board has amended the language of its risk-based capital guidelines to provide that claims on central banks are to be assigned to the same risk category as claims on their respective central governments.

III. Regulatory Flexibility Act Analysis

The Federal Reserve Board does not believe that adoption of this proposal would have a significant economic impact on a substantial number of small business entities (in this case, small banking organizations), in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). In addition, consistent with current policy, these guidelines generally will not apply to bank holding companies with consolidated assets of less than $150 million.

List of Subjects

12 CFR Part 208

Accounting, Agricultural loan losses, Applications, Appraisals, Banks, Banking, Capital adequacy, Confidential business information, Currency, Dividend payments, Federal Reserve System, Publication of reports of condition, Reporting and recordkeeping requirements, Securities, State member banks.

12 CFR Part 225

Administrative practice and procedure, Appraisals, Banks, Banking, Capital adequacy, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities, State member banks.

For the reasons set forth in this notice, and pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(b)), and section 910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3909), the Board is amending 12 CFR parts 208 and 225 to read as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

1. The authority citation for part 208 continues to read as follows:

Authority: Sections 9, 11(a), 11(c), 19, 21, 25, and 25(a) of the Federal Reserve Act, as amended (12 U.S.C. 321–338, 248(a), 248(c), 461, 481–486, 601, and 611, respectively); sections 4 and 13(j) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1814 and 1823(j), respectively); section 7(a) of the International Banking Act of 1978 (12 U.S.C. 3105); sections 907–910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3906–3909); sections 2, 12(b), 12(g), 12(i), 15B(c)(5), 17, 17A, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78b, 78*l*(b), 78*l*(g), 78*l*(i), 78o–4(c)(5), 78q, 78q–1, and 78w, respectively); section 5155 of the Revised Statutes (12 U.S.C. 36) as amended by the McFadden Act of 1927; and sections 1101–1122 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3310 and 3331–3351).

Appendix A [Amended]

2. A new sentence is added immediately following the first sentence of the first paragraph under "II. A. 1. b. Perpetual preferred stock" of appendix A to read as follows:

* * * Consistent with these provisions, any perpetual preferred stock with a feature permitting redemption at the option of the issuer may qualify as capital only if the redemption is subject to prior approval of the Federal Reserve. * * *

3. In appendix A, the footnote designator in the text is removed and footnote 14 is removed and reserved.

4. The last two sentences of footnote 30 under "III. C. 2. Category 2: 20 percent" of appendix A are removed.

5. Two new sentences are added immediately following the second sentence of the seventh paragraph under "III. D. 1. Items with a 100 percent conversion factor" of appendix A to read as follows:

* * * Accordingly, the entire amount of any assets transferred with recourse that are not already included on the balance sheet, including pools of one-to-four family residential mortgages, are to be converted at 100 percent and assigned to the risk weight appropriate to the obligor, or if relevant, the nature of any collateral or guarantees. The only exception involves transfers of pools of residential mortgages that have been made with insignificant recourse for which a liability or specific non-capital reserve has been established and is maintained for the maximum amount of possible loss under the recourse provision. * * *

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1843(c)(8), 1844(b), 3106, 3108, 3907, 3909, 3310, and 3331–3351.

Appendix A [Amended]

2. A new sentence is added immediately following the first sentence of the first paragraph under "II. A. 1. b. Perpetual preferred stock" of appendix A to read as follows:

* * * Consistent with these provisions, any perpetual preferred stock with a feature permitting redemption at the option of the issuer may qualify as capital only if the redemption is subject to prior approval of the Federal Reserve. * * *

3. In appendix A, the footnote designator in the text is removed and footnote 15 is removed and reserved.

4. The last two sentences of footnote 33 under "III. C. 2. Category 2: 20 percent" of appendix A are removed.

5. Two new sentences are added to the end of footnote 48 under "III. D. 1. Items with a 100 percent conversion factor" of appendix A to read as follows:

[48] * * * Accordingly, the entire amount of any assets transferred with recourse that are not already included on the balance sheet, including pools of one-to-four family residential mortgages, are to be converted at 100 percent and assigned to the risk weight appropriate to the obligor, or if relevant, the nature of any collateral or guarantees. The only exception involves transfers of pools of residential mortgages that have been made with insignificant recourse for which a liability or specific non-capital reserve has been established and is maintained for the maximum amount of possible loss under the recourse provision.

Board of Governors of the Federal Reserve System, October 3, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-24271 Filed 10-9-91; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-205-AD; Amdt. 39-8012; AD 91-18-09]

Airworthiness Directives: Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which requires that landing gear brake wear limits be incorporated into the FAA-approved maintenance inspection program. This amendment is prompted by an accident in which a transport category airplane executed a rejected takeoff (RTO) and was unable to stop on the runway. An investigation revealed that 8 out of 10 brakes on the airplane were at or near the maximum allowable wear limits before the RTO and were unable to absorb the required RTO energy, thus contributing to the accident. This condition, if not corrected, could result in loss of brake effectiveness during a high energy RTO and cause further incidents/accidents.

EFFECTIVE DATE: November 12, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Herron, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2672. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to certain Boeing Model 757 series airplanes, which requires that landing gear brake wear limits be incorporated into the FAA-approved maintenance inspection program, was published in the **Federal Register** on December 18, 1990 (55 FR 51923).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter disagreed with the standard that the FAA imposed regarding the allowance of thrust reverser credit in the calculation of the energy the brake must absorb in its worn state; this commenter asked that the allowable wear limits be adjusted to reflect no credit for thrust reversers. The commenter's reason for objecting was that the FAA would be unable to assure that brakes worn to the maximum allowable limit are capable of absorbing the additional energy if thrust reversers are not used or are inoperable. The FAA concurs in part with the commenter. If thrust reversers are unavailable, it is possible that the brakes will not be able to absorb the energy of a maximum kinetic energy RTO on a dry runway, field-length limited takeoff, with all the brakes at their maximum wear state. However, the FAA does not concur that the wear limit should be based on the absence of thrust reversers. A number of factors exist which, when considered, provide an acceptable level of safety without further reducing allowable brake wear through eliminating the effect of thrust reversers. Maximum energy RTO's are a relatively rare event. Further, it is rare for airplanes to be operating with all brakes worn to their limit. In addition, thrust reversers will in almost all cases be used because flight crews are trained to apply them when bringing the airplane to a stop, especially during an RTO. It should also be noted that the energy credit allowed for thrust reversers for the purposes of this AD is based on loss of an engine and its attendant thrust reverser, and loss of an engine is not the only reason for rejecting a takeoff. Also, there is usually more runway distance available than the minimum allowable under the operating rules, which provides some stopping performance margin during an RTO. When all these factors are considered, sufficient conservatism is present to offset the added costs associated with limiting brake wear based on the absence of thrust reversers.

One commenter asked that the **SUMMARY** section of the preamble to the rule be revised to state that the accident occurred on a Model DC-10. The commenter objected to the implication that all transport category airplanes are unsafe with current brake wear limits. The commenter considers that currently-configured brakes are safe, due to the current Federal Aviation Regulations requirements, airframe/brake manufacturer standards, and airline operation/maintenance practices. The FAA disagrees. The FAA has determined that the regulations do not adequately address the actual brake operating environment. Brakes do wear, and it is unrealistic to use a new brake to test the worst case RTO scenario. Therefore, the FAA has developed a standard, with input from the Aerospace Industries Association (AIA), to address this issue. Some brakes have demonstrated that they meet this standard; others have not, and their maximum allowable wear limit has been reduced accordingly.

Another commenter asked that the rule be withdrawn since there have been no accidents/incidents on the Model 757, and the possibility of having all brakes on the airplane being near the fully worn state at the same time is extremely remote. The FAA disagrees. This type of event has occurred on a transport airplane in service. Further, in light of recent data, new methodologies were developed and used to determine brake wear limits which, in some cases, are different from those currently used. The FAA has determined that these limits provide a more appropriate level of safety which more realistically reflects actual airplane usage than those currently recommended. Also, the existing wear limits may not be adhered to since they currently are not mandated by the FAA; as described in the preamble to the Notice, this could result in an unsafe condition.

One commenter contended that the period for public comment provided for this action was too short; this commenter indicated that only 23 working days were actually available for compiling comments. The FAA notes that the Notice was published in the **Federal Register** on December 18, 1990; the period for public comment closed on February 1, 1991. This time span encompassed a total of six weeks, which is the normal amount of time usually provided for public comment to any NPRM.

A commenter also asked that the "Discussion" section of the proposal be clarified since it gives the impression that something was wrong with the Model DC-10 brake pistons; there was nothing wrong with the pistons. The FAA agrees that there was nothing wrong with the pistons in the brake assemblies; the O-ring was damaged as a result of the pistons being over-extended due to excessive brake wear.

A commenter asked the FAA to justify why it did not incorporate certain key items recommended by the AIA. The commenter asked why the FAA:

1. Used 100% worn brakes when AIA demonstrated that airlines generally remove brakes prior to 100% wear and the extremely remote probability that all brakes on the airplane would be at the fully worn state when a maximum energy RTO is conducted.

2. Did not address brake force (stopping distance) when AIA guidelines dealt with brake force, and the energy and force issues are interdependent.

3. Did not consider the probability of occurrence and severity of the result in establishing these requirements.

FAA required a demonstration of 100% worn brakes because the regulatory and design intent is that brakes be capable of absorbing 100% of the energy in their operating environment. If the criteria only addressed brakes at a 90% worn state, the FAA would not have properly evaluated the brake. Also, airlines routinely remove brakes prior to their fully worn state; this is done for the sake of convenience, and for economic

considerations regarding dispatch and spares availability.

Brake force issues were not addressed in this rulemaking because the FAA determined that additional information was necessary before proceeding with rulemaking on this subject. The FAA therefore made the decision to continue with the brake energy issue in the interest of public safety while the issues surrounding brake force were being resolved. The FAA may consider further rulemaking to address the brake force issues.

Finally, the issue regarding probability of occurrence and severity of the result, proposed by the AIA, involved the probability of the airplane conducting an RTO at the maximum kinetic energy, with all brakes on the airplane being at their fully worn state and the airplane departing the runway at a relatively low speed (20 knots or less). The existing regulations and design criteria require that an airplane stop on the runway. It is unacceptable to the FAA for an airplane braking system to be designed in such a manner or to have standards that allow an airplane to leave the runway at any speed, since obstacles and hazards may damage the airplane or cause injuries to passengers and crew members.

Another commenter stated that rules regarding this subject should be promulgated for both U.S. and non-U.S. airframe manufacturers. The discussion in the proposed rule only stated that U.S. airframe manufacturers had been requested to provide required adjustments in allowable wear. The FAA responds by indicating that it is the intent of the FAA to address all airframes that have a U.S. Type Certificate. Non-U.S. airframe manufacturers have been providing similar information and additional rulemaking may be forthcoming based on the data received.

One commenter asked that brakes in limited use, and expected to decline in usage, be exempted from the worn brake standard imposed by the FAA. The FAA considers it inappropriate to attempt to address all brakes in this rulemaking action. However, the FAA will address each of these brakes on a case-by-case basis as it is petitioned by the airframe/brake manufacturers.

Another commenter requested that, for the sake of clarity, the brake and airframe manufacturer part numbers be identified in the rule. The FAA agrees that these should be included and has changed the final rule accordingly.

One commenter asked that the wording of proposed paragraph A. be revised to indicate that the specified limit is the length of the wear pin after the brake is rebuilt. The commenter provided no justification for why this should be done. The FAA does not consider such changes to the wording to be appropriate, since operators use different wear pin lengths and removal criteria for various reasons. By specifying the criteria as allowable wear, the rule still provides flexibility for the operators while meeting its intent.

One commenter requested that the FAA review the relevance of the requirement within the rule for incorporation of maintenance wear limits that are identical to values already in use, and currently in the brake manufacturers' component maintenance manuals and/or service bulletins. The commenter also asked that the FAA consider other appropriate means of accomplishing the intent of this rule, such as utilizing the provisions of 14 CFR part 43 to place more emphasis on this issue, and specifying that the brake manufacturers' component maintenance manual and/or service bulletin information control brake overhaul criteria. This would provide for comprehensive maintenance criteria to be controlled and maintained for each individual brake and airplane combination. The FAA disagrees. The FAA has determined that the current regulations and methodology used do not require the establishment and maintenance of wear limits, and that, as a result, an unsafe condition exists. Under these circumstances, the AD process is the appropriate regulatory means for mandating corrective action.

One commenter asked that certain brakes be excluded from the proposal since dynamometer testing has shown that these brakes do not require a wear limit reduction. The FAA disagrees. Even though no wear limit reduction is necessary, the rule still requires operators to establish these limits in their FAA-approved maintenance programs. Further, should an operator not be utilizing these limits, it is critical that their brakes be evaluated to ensure that they are within these limits.

Another commenter objected to the description of the unsafe condition as stated in the SUMMARY section of the preamble. This commenter contended that there is no change in wear limits and the loss of brake effectiveness does not exist for certain brakes. The commenter also stated that, since there have been no incidents or accidents involving Model 757 airplanes related to this issue, the indication that the addressed unsafe condition could lead to "further" accidents/incidents is inappropriate. The FAA disagrees. As stated previously, the FAA has determined that it is necessary to require that these wear limits be mandated and their present use verified. The term "further" was used in a generic sense, since the FAA is dealing with this issue on a broad basis.

One commenter stated that the phrase "not properly defined" as used in the preamble to the Notice to describe the current status of brake wear limits, is confusing since it could be interpreted to apply to the component maintenance manual or maintenance inspection program. The commenter asked that this be clarified to indicate that it only applies to the maintenance inspection program. The FAA's intent in using that phrase was to communicate that brake wear limits in the component maintenance manual may not be properly defined in or incorporated into the operators' FAA-approved maintenance programs.

Another commenter expressed concern about the difference between the wear limits for a specific brake recommended by the manufacturer in its service bulletin and that indicated in the proposed rule. Dynamometer tests showed that a 2.40-inch wear limit is capable of absorbing the required energy, but the service bulletin lists a lower limit (1.7 inches) due to service experience; future service experience may result in increases to the wear limits. The commenter requested that the wear limit recommended by the manufacturer in the service bulletin be included in the rule in place of the 2.40-inch wear limit proposed. The FAA agrees and has revised the final rule accordingly. This change should not increase wear limits already recommended and theoretically in use.

A final commenter objected to the statement that the intent of the rule is, "To prevent the loss of main landing gear braking effectiveness * * *," and suggested that it be changed to, "To assure that the present level of brake effectiveness is retained * * *" The commenter stated that the revised wording is more accurate since the wear limits currently being used by affected operators are not different from those specified in the proposed rule. The FAA disagrees that the wording needs to be changed. The FAA has determined that the wear limits recommended may not be adhered to since no specific requirement to do so exists. The use of the word "prevent" is appropriate since the ultimate intent of the brake wear limits is definitely to prevent the loss of braking effectiveness.

The format of the final rule has been restructured to be consistent with the standard **Federal Register** style.

Paragraph (b) of the final rule has been revised to specify the current procedure for submitting requests for approval of alternative method of compliance.

The economic analysis paragraph below, has been revised to increase the specified hourly labor rate from $40 per manhour (as was cited in the preamble to the Notice) to $55 per manhour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD activity to account for various inflationary costs in the airline industry.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither significantly increase the economic burden on any operator nor increase the scope of the rule.

There are approximately 151 Model 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 111 airplanes of U.S. registry and 8 operators will be affected by this AD. Although the rule would require the incorporation of maximum brake wear limits into the FAA-approved maintenance inspection program, no inspection action or part replacement costs are involved. However, it is estimated that it will require 20 manhours per operator, at an average labor cost of $55 per manhour, to incorporate the requirement into an operator's FAA-approved maintenance inspection program. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,800.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-18-09. **Boeing:** Amendment 39-8012. Docket No. 90-NM-205-AD.

Applicability: Model 757 series airplanes equipped with brake part numbers (P/N) identified in paragraph (a) of this AD, certificated in any category.

Compliance: Required as indicated, unless previously accomplished. To prevent the loss of main landing gear braking effectiveness, accomplish the following:

(a) Within 180 days after the effective date of this AD, incorporate the maximum brake wear limits, shown below, into the FAA-approved maintenance inspection program.

Brake Mfr.	Brake P/N	Boeing P/N	Max. wear limit
Dunlop	AHA 1301	S160N020-1	2.46 inches.
Dunlop	AHA 1637	S160N020-5	2.46 inches.
Dunlop	AHA 1676	S160N020-7	2.46 inches.
Dunlop	AHA 1693	S160N020-8	2.46 inches.
Dunlop	AHA 1884	S160N020-14	2.80 inches.
BF Goodrich	2-1510	S160N020-11	1.70 inches.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

This amendment (39-8012, AD 91-18-09) becomes effective November 12, 1991.

Issued in Renton, Washington, on September 26, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-24458 Filed 10-9-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-206-AD; Amdt. 39-8013; AD 91-18-10]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767 series airplanes, which requires that landing gear brake wear limits be incorporated into the FAA-approved maintenance inspection program. This amendment is prompted by an accident in which a transport category airplane executed a rejected takeoff (RTO) and was unable to stop on the runway. An investigation revealed that 8 out of 10 brakes on the airplane were at or near the maximum allowable wear limits before the RTO and were unable to absorb the required RTO energy, thus contributing to the accident. This condition, if not corrected, could result in loss of brake effectiveness during a high energy RTO and cause further incidents/accidents.

EFFECTIVE DATE: November 12, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Herron, Seattle Aircraft

Certification Office, Systems and Equipment Branch, ANM–130S; telephone (206) 227–2672. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 767 series airplanes, which requires that landing gear brake wear limits be incorporated into the FAA-approved maintenance inspection program, was published in the **Federal Register** on December 18, 1990 (55 FR 51916).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter disagreed with the standard that the FAA imposed regarding the allowance of thrust reverser credit in the calculation of the energy the brake must absorb in its worn state; this commenter asked that the allowable wear limits be adjusted to reflect no credit for thrust reversers. The commenter's reason for objecting was that the FAA would be unable to assure that brakes worn to the maximum allowable limit are capable of absorbing the additional energy if thrust reversers are not used or inoperable. The FAA concurs in part with the commenter. If thrust reversers are unavailable, it is possible that the brakes will not be able to absorb the energy of a maximum kinetic energy RTO on a dry runway, field-length limited takeoff, with all the brakes at their maximum wear state. However, the FAA does not concur that the wear limit should be based on the absence of thrust reversers. A number of factors exist which, when considered, provide an acceptable level of safety without further reducing allowable brake wear through eliminating the effect of thrust reversers. Maximum energy RTO's are a relatively rare event. Further, it is rare for airplanes to be operating with all brakes worn to their limit. In addition, thrust reversers will in almost all cases be used because flight crews are trained to apply them when bringing the airplane to a stop, especially during an RTO. It should be noted that the energy credit allowed for thrust reversers for the purposes of this AD is based on loss of an engine and its attendant thrust reverser, and loss of an engine is not the only reason for rejecting a takeoff. Additionally, there is usually more runway distance available than the minimum allowable under the operating rules, which provides some stopping performance margin during an RTO. When all these factors are considered, sufficient conservatism is present to offset the added costs associated with limiting brake wear based on the absence of thrust reversers.

Another commenter asked that the rule be withdrawn since there have been no accidents/incidents on the Model 767, and the possibility of having all brakes on the airplane being near the fully worn state at the same time is extremely remote. The FAA disagrees. This type of event has occurred on a transport airplane in service. Further, in light of recent data, new methodologies were developed and used to determine brake wear limits which, in some cases, are different from those currently used. The FAA has determined that these limits provide a more appropriate level of safety which more realistically reflects actual airplane usage than those currently recommended. Also, the existing wear limits may not be adhered to since they currently are not mandated by the FAA; as described in the preamble to the Notice, this could result in an unsafe condition.

One commenter asked that the SUMMARY section of the preamble to the rule be revised to state that the accident occurred on a Model DC–10. The commenter objected to the implication that all transport category airplanes are unsafe with current brake wear limits. The commenter considers that currently-configured brakes are safe, due to the current Federal Aviation Regulations requirements, airframe/brake manufacturer standards, and airline operation/maintenance practices. The FAA disagrees. The FAA has determined that the regulations do not adequately address the actual brake operating environment. Brakes do wear, and it is unrealistic to use a new brake to test the worst case RTO scenario. Therefore, the FAA has developed a standard, with input from the Aerospace Industries Association (AIA), to address this issue. Some brakes have demonstrated that they meet this standard; others have not, and their maximum allowable wear limit has been reduced accordingly.

One commenter asked that the phrase "high energy RTO," as used in the description of the addressed unsafe condition, be changed to "maximum energy RTO." The commenter considers the use of the term "high energy" to be misleading since most airlines consider "high energy" to mean sufficient energy to melt the wheel fuse plugs; "maximum energy," as listed in the flight manual is typically much greater than the fuse plug energy. The FAA disagrees. The term "high energy" was used merely in a generic sense. "Maximum energy" is the highest energy demonstrated to the FAA for certification. The term "high energy" was used in the description because it was unknown at what energy the brake may comply with the worn brake standard. The term "high energy" is inclusive of "maximum energy."

This commenter also objected to the phrase "* * * and cause further incidents/accidents," as used in the description of the addressed unsafe condition. The commenter suggested that it be changed to "* * * and cause an incident or accident," since the Boeing Model 767 has not been involved in any previous incident or accident related to the identified unsafe condition. The FAA disagrees that a change is necessary. The term "further" is used in that description only in a generic sense. The FAA considers the potential for the unsafe condition to exist on all transport airplanes; this rulemaking action is one of several that is addressing it on a broad basis.

One commenter contended that the period for public comment provided for this action was too short; this commenter indicated that only 23 working days were actually available for compiling comments. The FAA notes that the Notice was published in the **Federal Register** on December 18, 1990; the period for public comment closed on February 1, 1991. This time span encompassed a total of six weeks, which is the normal amount of time usually provided for public comment to any NPRM.

A commenter also asked that the "Discussion" section of the proposal be clarified since it gives the impression that something was wrong with the Model DC–10 brake pistons; there was nothing wrong with the pistons. The FAA agrees that there was nothing wrong with the pistons in the brake assemblies; the O-ring was damaged as a result of the pistons being over-extended due to excessive brake wear.

A commenter asked the FAA to justify why it did not incorporate certain key items recommended by the AIA. The commenter asked why the FAA:

1. Used 100% worn brakes when AIA demonstrated that airlines generally remove brakes prior to 100% wear and the extremely remote probability that all brakes on the airplane would be at the fully worn state when a maximum energy RTO is conducted

2. Did not address brake force (stopping distance) when AIA guidelines

dealt with brake force and the energy and force issues are interdependent.

3. Did not consider the probability of occurrence and severity of the result in establishing these requirements.

The FAA required a demonstration of 100% worn brakes because the regulatory and design intent is that brakes be capable of absorbing 100% of the energy in their operating environment. If the criteria only addressed brakes at a 90% worn state, the FAA would not have properly evaluated the brake. Also, airlines routinely remove brakes prior to their fully worn state; this is done for the sake of convenience, and for economic considerations regarding dispatch and spares availability.

Brake force issues were not addressed in this rulemaking because the FAA determined that additional information was necessary before proceeding with rulemaking on this subject. The FAA therefore made the decision to continue with the brake energy issue in the interest of public safety while the issues surrounding brake force were being resolved. The FAA may consider further rulemaking to address the brake force issues.

Finally, the issue regarding probability of occurrence and severity of the result proposed by the AIA, involved the probability of the airplane conducting an RTO at the maximum kinetic energy, all brakes on the airplane being at their fully worn state, and the airplane departing the runway at a relatively low speed (20 knots or less). The existing regulations and design criteria require that an airplane stop on the runway. It is unacceptable to the FAA for an airplane braking system to be designed in such a manner or to have standards that allow an airplane to leave the runway at any speed, since obstacles and hazards may damage the airplane or cause injuries to passengers or crew members.

Another commenter stated that rules regarding this subject should be promulgated for both U.S. and non-U.S. airframe manufacturers. The discussion in the proposed rule only stated that U.S. airframe manufacturers had been requested to provide required adjustments in allowable wear. It is the intent of the FAA to address all airframes that have a U.S. Type Certificate. Non-U.S. airframe manufacturers have been providing similar information and additional rulemaking may be forthcoming based on the data received.

One commenter asked that brakes in limited use, and expected to decline in usage, be exempted from the worn brake standard imposed by the FAA. The FAA considers it inappropriate to attempt to address all brakes in this rulemaking action. However, the FAA will address each of these brakes on a case-by-case basis as it is petitioned by the airframe/brake manufacturers.

Another commenter requested that brake and airframe manufacturer part numbers be identified in the rule. The FAA agrees that these should be included and has changed the final rule accordingly.

One commenter asked that the wording of proposed paragraph A. be reworded to indicate that the specified limit is the length of the wear pin after the brake is rebuilt. The commenter provided no justification for why this should be done. The FAA does not consider changing the wording to be appropriate, since operators use different wear pin lengths and removal criteria for various reasons. By specifying the criteria as allowable wear, the rule still provides flexibility for the operators while meeting its intent.

One commenter requested that the FAA review the relevance of the requirement within the rule for incorporation of maintenance wear limits that are identical to values already in use, and currently in the brake manufacturers' component maintenance manuals and/or service bulletins. The commenter also asked that the FAA consider other appropriate means of accomplishing the intent of this rule, such as utilizing the provisions of part 43 of the Federal Aviation Regulations ("Maintenance, Preventive Maintenance, Rebuilding, and Alteration") to place more emphasis on this issue, and specifying that the brake manufacturers' component maintenance manual and/or service bulletin information control brake overhaul criteria. This would provide for comprehensive maintenance criteria to be controlled and maintained for each individual brake and airplane combination. The FAA disagrees. The FAA has determined that the current regulations and methodology used do not require the establishment and maintenance of wear limits and that, as a result, an unsafe condition exists. Under these circumstances, the AD process is the appropriate regulatory means for mandating corrective action.

A commenter asked that the term "certain" (Boeing Model 767 series airplanes), as used in the **SUMMARY** section to describe the applicability of the rule, be changed to "all" since the rule addresses all Model 767 brakes; the term "certain" implies that not all Model 767 brakes are addressed. The FAA concurs. The term "certain" has been deleted from the preamble of this final rule and replaced with the word "all."

One commenter asked that certain brakes be excluded from the proposal since dynamometer testing has shown that these brakes do not require a wear limit reduction. The FAA disagrees. Even though no wear limit reduction is necessary, the rule still requires operators to establish these limits in their FAA-approved maintenance program. Further, should an operator not be utilizing these limits, it is critical that their brakes be evaluated to assure that they are within these limits.

Another commenter objected to the description of the unsafe condition as stated in the **SUMMARY** section of the preamble. This commenter contended that there is no change in wear limits, and the loss of brake effectiveness does not exist for certain brakes. The commenter also stated that, since there have been no incidents or accidents involving Model 767 airplanes related to this issue, the indication that the addressed unsafe condition could lead to further accidents/incidents is inappropriate. The FAA disagrees. As stated previously, the FAA has determined that it is necessary to require that these wear limits be mandated and their present use verified. The term "further" was used in a generic sense, since the FAA is dealing with this issue on a broad basis.

One commenter stated that the phrase "not properly defined," as used in the preamble to the Notice to describe the current status of brake wear limits, is confusing since it could be interpreted to apply to the component maintenance manual or maintenance inspection program. The commenter asked that this be clarified to indicate that it only applies to the maintenance inspection program. The FAA's intent in using that phrase was to communicate that brake wear limits in the component maintenance manual may not be properly defined in or incorporated into the operators' FAA-approved maintenance programs.

A commenter stated that the note in the preamble to the Notice regarding dynamometer tests "yet to be completed" is no longer applicable; those tests are now complete and the brake wear limits have been verified. The FAA agrees.

Another commenter expressed concern about the difference between the wear limits for two specific brakes currently specified in the component maintenance manual and those specified in the proposed rule. Dynamometer tests showed that a 2.97-inch wear limit is capable of absorbing

the required energy, but the component maintenance manual lists lower limits (2.56 and 2.90 inches) due to service experience; future service experience may result in increases to the wear limits. The commenter requested that the wear limits for these two brakes currently in the component maintenance manual be included in the rule in place of the 2.97-inch wear limit proposed. The FAA agrees and has revised the final rule accordingly. This change should not increase wear limits already recommended and theoretically in use.

A final commenter objected to the statement that the intent of the rule is, "To prevent the loss of main landing gear braking effectiveness * * *," and suggested that it be changed to, "To assure that the present level of brake effectiveness is retained * * *" The commenter stated that the revised wording is more accurate since the wear limits currently being used by affected operators are not different from those specified in the proposed rule. The FAA disagrees that the wording needs to be changed. The FAA has determined that the wear limits recommended may not be adhered to since no specific requirement to do so exists. The use of the word "prevent" is appropriate since the ultimate intent of the brake wear limits is definitely to prevent the loss of braking effectiveness.

The format of the final rule has been restructured to be consistent with the standard **Federal Register** style.

Paragraph (b) of the final rule has been revised to specify the current procedure for submitting requests for approval of alternative method of compliance.

The economic analysis paragraph below, has been revised to increase the specified hourly rate from $40 per manhour (as was cited in the preamble to the Notice) to $55 per manhour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD activity to account for various inflationary costs in the airline industry.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither significantly increase the economic burden on any operator nor increase the scope of the rule.

There are approximately 317 Model 767 series airplanes of the affected design in the worldwide fleet. It is estimated that 115 airplanes of U.S. registry and 7 U.S. operators will be affected by this AD. Although the rule will require the incorporation of maximum brake wear limits into the FAA-approved maintenance inspection program, no other action, inspection, or part replacement costs are involved. However, it is estimated that it will require 20 manhours, at an average labor cost of $55 per manhour, for each operator to incorporate the requirement into its FAA-approved maintenance inspection program. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,700 (or $1,100 per operator).

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91–18–10. **Boeing:** Amendment 39–8013. Docket No. 90–NM–206–AD.

Applicability: Model 767 series airplanes equipped with brake part numbers (P/N) identified in paragraph (a) of this AD, certificated in any category.

Compliance: Required as indicated, unless previously accomplished. To prevent the loss of main landing gear braking effectiveness, accomplish the following:

(a) Within 180 days after the effective date of this AD, incorporate the maximum brake wear limits, shown below, into the FAA-approved maintenance inspection program.

Brake manufacturer	Brake P/N	Boeing P/N	Maximum wear limit (inches)
Bendix	2607092–1	S160T200–12	2.15
Bendix	2607092–2	S160T200–13	2.15
Bendix	2607092–3	S160T200–14	2.15
Bendix	2607092–4	S160T200–15	2.15
Bendix	2608812–4	S160T300–12	2.56
Bendix	2608812–6	S160T300–14	2.90

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

This amendment (39–8013, AD 91–18–10) becomes effective November 12, 1991.

Issued in Renton, Washington, on September 26, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–24459 Filed 10–9–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–NM–203–AD; Amdt. 39–8010; AD 91–18–07]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 727 series airplanes, which requires that all landing gear brakes be inspected for wear and replaced if the wear limits prescribed in this amendment are not met, and that the new wear limits be incorporated into the FAA-approved maintenance inspection program. This amendment is prompted by an accident in which a transport category airplane executed a rejected takeoff (RTO) and

was unable to stop on the runway. An investigation revealed that 8 out of 10 brakes on the airplane were near the maximum allowable wear limits before the RTO and were unable to absorb the required RTO energy, thus contributing to the accident. This condition, if not corrected, could result in loss of brake effectiveness during a high energy RTO and cause further incidents/accidents.

EFFECTIVE DATE: November 12, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124; B.F. Goodrich Aerospace, Aircraft Wheels and Brakes, P.O. Box 340, Troy, Ohio 45373; and Allied-Signal Aerospace Company, Bendix Wheels and Brakes Division, South Bend, Indiana 46628. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Herron, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM–130S; telephone (206) 227–2672. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to certain Boeing Model 727 series airplanes, which requires that all landing gear brakes be inspected for wear and replaced if the wear limits prescribed in this amendment are not met, and that new wear limits be incorporated into the FAA-approved maintenance inspection program, was published in the **Federal Register** on December 18, 1990 (55 FR 51919).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters stated that part number "2–1147–" referenced in the preamble of the proposed rule as published in the **Federal Register** should have been "2–1190." The FAA concurs that a typographical error was made. However, the part number was correct in the body of the proposed rule.

Several commenters asked that certain service bulletins recently released by the brake manufacturers be referenced in the rule as alternative methods of compliance. The FAA has reviewed and approved B.F. Goodrich Service Bulletins 2–1147–32–13 and 2–1190–32–13, both dated December 21, 1990; and Bendix Service Bulletin No. 2601182–32–014, dated January 30, 1991; which describe how to overhaul the brakes and determine allowable wear. The final rule has been revised to allow use of the procedures specified in these service bulletins as alternative methods of compliance. The FAA has determined that by utilizing the service bulletins, the brake configurations will meet the standard proposed by the FAA and will lessen the economic burden on the operators.

One commenter asked that the service bulletins mentioned previously not be included in the rule and that individuals request their use through the "alternative method of compliance" provisions of the rule. The FAA disagrees. The commenter has the option of utilizing that means if he so chooses, and the rule provides it as an option.

Another commenter disagreed with the standard that the FAA imposed regarding the allowance of thrust reverser credit in the calculation of the energy that the brake must absorb in its worn state; this commenter asked that the allowable wear limits be adjusted to reflect no credit for thrust reversers. The commenter's reason for objecting was that the FAA would be unable to assure that brakes worn to the maximum allowable limit are capable of absorbing the additional energy if thrust reversers are not used or are inoperable. The FAA concurs in part with the commenter. If thrust reversers are unavailable, it is possible that the brakes will not be able to absorb the energy of a maximum kinetic energy RTO on a dry runway, field-length limited takeoff, with all the brakes at their maximum wear state. However, the FAA does not concur that the wear limit should be based on the absence of thrust reversers. A number of factors exist which, when considered, provide an acceptable level of safety without further reducing allowable brake wear through eliminating the effect of thrust reversers. Maximum energy RTO's are a relatively rare event. Further, it is rare for airplanes to be operating with all brakes worn to their limit. In addition, thrust reversers will in almost all cases be used because flight crews are trained to apply them when bringing the airplane to a stop, especially during an RTO. It should also be noted that the energy credit allowed for thrust reversers for the purposes of this AD is based on loss of an engine and its attendant thrust reverser, and loss of an engine is not the only reason for rejecting a takeoff. Also, there is usually more runway distance available than the minimum allowable under the operating rules, which provides some stopping performance margin during an RTO. When all these factors are considered, sufficient conservatism is present to offset the added costs associated with limiting brake wear based on the absence of thrust reversers.

Several commenters stated that the economic impact was underestimated. One of the commenters requested that the economic analysis include recurring costs, since brakes are consumables. The FAA disagrees. Historically, recurring costs due to consumables have not been included in economic analyses of AD rulemaking. The cost of replacing brakes is considered to be the same as or similar to the increased cost in a part that is routinely replaced, or increased costs of fuel. The estimates used in the proposed rule are those direct costs associated with the initial compliance with the AD.

Commenters also requested that the compliance time be increased from the proposed 180 days to 250 or 280 days, since accomplishment within 180 days would require operators to schedule special brake removals at considerable expense. The FAA disagrees. Brakes are not removed at regularly scheduled intervals now, but are continually inspected and removed when at or near their allowable wear limit. Over the 180-day compliance period, operators could replace brakes with brakes from spares that are configured to the new allowable wear limit; this would limit the large number of brakes needing to be replaced at the end of the 180-day compliance period. Further, if the original allowable wear limit used and the length of wear pin is known, cutting the wear pin indicator to a different length may be all that is needed; this could be done on the airplane. Therefore, the FAA has determined that the increase in cost associated with a 180-day compliance time is mitigated by the increase in safety to the flying public and the rule is adopted with the compliance time proposed.

Another commenter asked that the wording of the rule be changed to eliminate the potential misinterpretation that the brake must be removed if the wear pin is below the applicable 1.6 or 1.7 inch allowable wear dimension. The commenter stated that this should be clarified, since the dimension represents the total usable lining thickness on an overhauled brake and, as such, should be specified differently than proposed. The FAA disagrees. The FAA has determined that any brake found to be at or below the allowable wear limit, as specified in the proposal, will not

perform its intended function throughout the full braking regime of an RTO conducted at or near the maximum kinetic energy capacity of the brake. In some flight manuals there is a performance decrement when airplanes are dispatched with a brake inoperative, since accelerate-stop performance is affected. In a similar manner, one brake worn beyond the limit specified in the proposal may result in decreased stopping performance. Therefore, conducting continued flights with one or more brakes below this limit will result in potential unsafe conditions. Misinterpretation is considered unlikely since the rule is specific; a brake found below these limits when inspected for compliance with this rule must be replaced prior to further flight.

Several commenters asked that the rule be withdrawn since there have been no accidents/incidents on the Model 727, and the possibility of having all brakes on the airplane being near the fully worn state at the same time is extremely remote. The FAA disagrees. This type of event has occurred on a transport airplane in service. Further, in light of recent data, new methodologies were developed and used to determine brake wear limits which, in some cases, are different from those currently used. The FAA has determined that these limits provide a more appropriate level of safety which more realistically reflects actual airplane usage than those currently recommended. Also, the existing wear limits may not be adhered to since they currently are not mandated by the FAA; as described in the preamble to the Notice, this could result in an unsafe condition.

One other commenter asked that the FAA include brake wear limits for the Bendix brake fitted with NASCO brake rotors (STC SA3948NM). The FAA agrees that the Bendix brake fitted with NASCO rotors does need to be addressed. Bendix brakes equipped with NASCO rotors are a modified brake. Because the brake has been modified, it may or may not meet the allowable wear limits specified in this rulemaking activity. The FAA may consider further rulemaking to address Bendix brakes modified in accordance with STC SA3948NM.

One commenter requested that the rule be changed to require that brakes with different wear stack configurations be identified with different assembly part numbers, rather than placards or tags, as the means of showing compliance with the rule. The commenter did not provide any reason for wanting the change, however. The FAA disagrees. The potential benefits, if any, do not justify the costs and logistics associated with part number changes.

Another commenter asked that Bendix brake assembly part number 2601182–5 be included in the rule since the commenter uses that assembly on its fleet of affected airplanes. The FAA does not consider it appropriate to address that assembly at this time. The FAA may include this assembly in future rulemaking, but only after tests and analyses for that brake assembly have been completed.

One commenter asked that the **SUMMARY** section of the preamble to the rule be revised to state that the accident occurred on a Model DC–10. The commenter objected to the implication that all transport category airplanes are unsafe with current brake wear limits. The commenter considers that currently-configured brakes are safe, due to the current Federal Aviation Regulations requirements, airframe/brake manufacturer standards, and airline operation/maintenance practices. The FAA disagrees. The FAA has determined that the regulations do not adequately address the actual brake operating environment. Brakes do wear, and it is unrealistic to use a new brake to test the worst case RTO scenario. Therefore, the FAA has developed a standard, with input from the Aerospace Industries Association (AIA), to address this issue. Some brakes have demonstrated that they meet this standard; others have not, and their maximum allowable wear limit has been reduced accordingly.

One commenter asked that the phrase "high energy RTO," as used in the description of the addressed unsafe condition, be changed to "maximum energy RTO." The commenter considers the use of the term "high energy" to be misleading since most airlines consider "high energy" to mean sufficient energy to melt the wheel fuse plugs; "maximum energy," as listed in the flight manual is typically much greater than the fuse plug energy. The FAA disagrees. The term "high energy" was used merely in a generic sense. "Maximum energy" is the highest energy demonstrated to the FAA for certification. The term "high energy" was used in the description because it was unknown at what energy the brake may comply with the worn brake standard. The term "high energy" is inclusive of "maximum energy."

This commenter also objected to the phrase "* * * and cause further incidents/accidents," as used in the description of the addressed unsafe condition. The commenter suggested that it be changed to "* * * and cause an incident or accident," since the Boeing Model 727 has not been involved in any previous incident or accident related to the identified unsafe condition. The FAA disagrees that a change is necessary. The term "further" was used in that description only in a generic sense. The FAA considers the potential for the unsafe condition to exist on all transport airplanes; this rulemaking action is one of several that is addressing it on a broad basis.

One commenter contended that the period for public comment provided for this action was too short; this commenter indicated that only 23 working days were actually available for compiling comments. The FAA notes that the Notice was published in the Federal Register on December 18, 1990; the period for public comment closed on February 1, 1991. This time span encompassed a total of six weeks, which is the normal amount of time usually provided for public comment to any NPRM.

A commenter also asked that the "Discussion" section of the proposal be clarified since it gives the impression that something was wrong with the Model DC–10 brake pistons; there was nothing wrong with the pistons. The FAA agrees that there was nothing wrong with the pistons in the brake assemblies: the O-ring was damaged as a result of the pistons being over-extended due to excessive brake wear.

A commenter asked the FAA to justify why it did not incorporate certain key items recommended by the AIA. The commenter asked why the FAA:

1. Used 100% worn brakes when AIA demonstrated that airlines generally remove brakes prior to 100% wear and the extremely remote probability that all brakes on the airplane would be at the fully worn state when a maximum energy RTO is conducted.

2. Did not address brake force (stopping distance) when AIA guidelines dealt with brake force and the energy and force issues are interdependent.

3. Did not consider the probability of occurrence and severity of the result in establishing these requirements.

The FAA required a demonstration of 100% worn brakes because the regulatory and design intent is that brakes be capable of absorbing 100% of the energy in their operating environment. If the criteria only addressed brakes at a 90% worn state, the FAA would not have properly evaluated the brake. Also, airlines routinely remove brakes prior to their fully worn state; this is done for the sake of convenience and for economic considerations regarding dispatch and spares availability.

Brake force issues were not addressed in this rulemaking because the FAA determined that additional information was necessary before proceeding with rulemaking on this subject. The FAA therefore made the decision to continue with the brake energy issue in the interest of public safety while the issues surrounding brake force were being resolved. The FAA may consider further rulemaking to address the brake force issues.

Finally, the issue regarding probability of occurrence and severity of the result proposed by the AIA involved the probability of the airplane conducting an RTO at the maximum kinetic energy, all brakes on the airplane being at their fully worn state, and the airplane departing the runway at a relatively low speed (20 knots or less). The existing regulations and design criteria require that an airplane stop on the runway. It is unacceptable to the FAA for an airplane braking system to be designed in such a manner or to have standards that allow an airplane to leave the runway at any speed, since obstacles and hazards may damage the airplane or cause injuries to passengers and crew members.

Another commenter stated that rules regarding this subject should be promulgated for both U.S and non-U.S. airframe manufacturers. The discussion in the proposed rule only stated that U.S. airframe manufacturers had been requested to provide required adjustments in allowable wear. It is the intent of the FAA to address all transport airplanes that have a U.S. Type Certificate. Non-U.S. airframe manufacturers have been providing similar information and additional rulemaking may be forthcoming based on the data received.

One commenter asked that brakes in limited use, and expected to decline in usage, be exempted from the worn brake standard imposed by the FAA. The FAA considers it inappropriate to attempt to address all brakes in this rulemaking action. However, the FAA will address each of these brakes on a case-by-case basis, as petitioned by the airframe/brake manufacturers.

Another commenter asked that the sentence "Further, these limits are only recommended values," be deleted from the preamble of the Notice. The commenter considers those limits to be more than "limits" in the usual sense of the word, since they are widely adopted and have been used in service for many years. The commenter believes that the FAA has underestimated the importance of the currently recommended wear limits. The FAA disagrees that this sentence should be deleted, or that the importance of the currently recommended wear limits has been underestimated. On the contrary, the FAA considers these limits, after demonstrating that they meet the requirements recently mandated, to be critical to the continued safe operation of the airplane. Hence, the requirement has been mandated to ensure that these limits are incorporated within the operators' approved maintenance programs.

A final commenter requested that brake and airframe manufacturer part numbers be identified in the rule. The FAA agrees that these should be included and has changed the final rule accordingly.

The format of the final rule has been restructured to be consistent with the standard Federal Register style.

Paragraph (f) of the final rule has been revised to specify the current procedure for submitting requests for approval of alternative methods of compliance.

The economic analysis paragraph below, has been revised to increase the specified hourly rate from $40 per manhour (as was cited in the preamble to the Notice) to $55 per manhour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD activity to account for various inflationary costs in the airline industry.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither significantly increase the economic burden on any operator nor increase the scope of the rule.

There are approximately 1,547 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 927 airplanes of U.S registry will be affected by this AD, that it will take approximately 15 manhours per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. The cost of parts to accomplish the change (cost resulting from the requirement to change brakes before they are worn to their previously approved limits for a one-time change) is estimated to be $2,048 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,663,271.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-18-07. **Boeing:** Amendment 39-8010. Docket No. 90-NM-203-AD.

Applicability: Model 727 series airplanes, equipped with brake part numbers (P/N) identified in paragraph (a) of this AD, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent the loss of main landing gear braking effectiveness, accomplish the following:

(a) Within 180 days after the effective date of this AD, inspect the brake part numbers shown below for wear. Any brake worn more than the maximum wear limit specified below must be replaced, prior to further flight, with either a brake within that maximum wear limit or one built in accordance with the appropriate service bulletins specified in paragraph (c), (d), or (e) of this AD, as applicable.

Brake mfr.	Brake P/N	Boeing P/N	Maximum wear limit (inches)
BFGoodrich.	2-1147	10-61287-10	1.6

Brake mfr.	Brake P/N	Boeing P/N	Maximum wear limit (inches)
BFGoodrich.	2-1147-1	10-61287-12	1.6
BFGoodrich.	2-1147-3	10-61287-18	1.6
BFGoodrich.	2-1147-4	10-61287-25	1.6
BFGoodrich.	2-1190	10-61287-13	1.6
Bendix	2601182-6	10-61287-23	1.7

(b) Within 180 days after the effective date of this AD, incorporate the maximum brake wear limits specified in paragraph (a) of this AD into the FAA-approved maintenance program.

(c) The allowable wear limits for BFGoodrich (BFG) brake part numbers 2-1147 and 2-1147-1, -3, and -4 may be established in accordance with BFG Service Bulletin No. 2-1147-32-13, dated December 21, 1990, and placed into the operator's FAA-approved maintenance program in lieu of those specified in paragraph (a) of this AD.

(d) The allowable wear limit for BFGoodrich (BFG) brake part number 2-1190 may be established in accordance with BFG Service Bulletin No. 2-1190-3-13, dated December 21, 1990, and placed into the operator's FAA-approved maintenance program in lieu of that specified in paragraph (a) of this AD.

(e) The allowable wear limits for Bendix brake part number 2601182-6 may be established in accordance with Bendix Service Bulletin No. 2601181-32-014, dated January 30, 1991, in lieu of that specified in paragraph (a) of this AD. Either that service bulletin or the wear limit specified in paragraph (a) of this AD shall be placed into the operator's FAA-approved maintenance program, but not both.

(f) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

This amendment (39-8010, AD 91-18-07) becomes effective November 12, 1991.

Issued in Renton, Washington, on September 26, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-24460 Filed 10-9-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 91-ANE-33]

Amendment to Transition Area; Rangeley, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the description of the Rangeley, Maine 700 Foot Transition Area.

EFFECTIVE DATE: October 10, 1991.

FOR FURTHER INFORMATION CONTACT: Barbara Federici, System Management Branch, ANE-530, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA, 01803-5299; Telephone: (617) 273-7035.

SUPPLEMENTARY INFORMATION:

History

A Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** on May 12, 1986 (51 FR 17365), which proposed to establish the Rangeley, Maine 700 Foot Transition Area. The purpose of the NPRM was to provide protected airspace for aircraft executing a Non-Directional Radio Beacon (NDB) Standard Instrument Approach Procedure (SIAP) to Rangeley Municipal Airport, Rangeley, Maine.

The NPRM correctly described the Rangeley Transition Area with reference to the Rangeley NDB 244 magnetic (226 true) bearing from the Rangeley NDB. However, the final rule, issued on July 23, 1986, Airspace Docket No. 86-ANE-18, incorrectly referenced the Rangeley NDB 244 magnetic (266 true) bearing.

This action corrects the error in the description of the Rangeley, Maine 700 Foot Transition Area. In addition, minor editorial changes in that description are made for clarity. Section 181 of part 71 of the FAR's was last republished in FAA Order 7400.6G, dated September 4, 1990.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the description of the Rangeley, Maine, Transition Area as published in the **Federal Register** on August 5, 1986 (51 FR 28067), is corrected as follows:

§ 71.171 [Corrected]

2. Rangeley, Maine [Corrected]

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Center of the Rangeley Municipal Airport, Rangeley, Maine (lat. 44°59'00" N., long. 70°39'45" W.), and that airspace within 3.5 miles on each side of the Rangeley NDB 244 magnetic (226 true) bearing from the Rangeley NDB, extending southwest from the 6.5 mile radius area to 10 miles southwest of the Rangeley NDB, (lat. 44°56'02" N., long. 70°45'03" W).

Francis J. Johns,

Manager, Air Traffic Division, New England Region.

[FR Doc. 91-24464 Filed 10-9-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 91-ANM-15]

Alteration of VOR Federal Airways; WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of Federal Airways V-287 and V-349 located in the State of Washington. This action will alter the en route airway structure to coincide with the relocation of the Paine, WA (PAE) very high frequency omnidirectional radio range and tactical air navigational aid (VORTAC). This action will also facilitate new departure procedures at Bellingham and improve the airway system in the Puget Sound area. Studies conducted by the FAA Northwest Mountain Flight Standards and Air Traffic offices indicate that the alteration of V-287 and V-349 will accomplish the desired system improvement without the establishment of V-347 as proposed in the notice of proposed rulemaking (NPRM). This action will now realign only V-287 and V-349.

EFFECTIVE DATE: 0901 UTC, November 14, 1991.

FOR FURTHER INFORMATION CONTACT: Alton D. Scott, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

On August 30, 1991, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of V-287 and V-349 from the Paine VORTAC and to establish V-347 in the State of Washington (56 FR 42965). Additional analysis and studies of this proposal determined that further alteration of V-287 and V-349 will

accomplish the desired system improvement without the establishment of V-347. Therefore, V-287 and V-349 will now be aligned to coincide with the airway track as proposed in the NPRM. The airway designations will change to reflect the removal of V-347. This action will facilitate new departure procedures at Bellingham, WA, and improve the airway system in the Puget Sound area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations will alter the descriptions of V-287 and V-349 from the Paine VORTAC located in the State of Washington. This amendment will facilitate new departure procedures at Bellingham and improve the airway system in the Puget Sound area. Studies conducted by the FAA Northwest Mountain Flight Standards and Air Traffic offices indicate that the alteration of V-287 and V-349 will accomplish the desired system improvement without the establishment of V-347. This action will realign V-287 and V-349 to coincide with the relocation of the Paine VORTAC. The regulatory description of V-23 will remain the same although the bearings between Bellingham and the Paine VORTAC have changed to reflect this relocation. This action is to improve traffic flow, increase aircraft safety, and reduce controller workload.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-287 [Amended]

By removing the Words "INT Olympia 010° and Paine, WA, 257° radials;" and substituting the words "INT Olympia 010° and Paine, WA, 254° radials; Paine; INT Paine 329° and Bellingham, WA, 191° radials; to Bellingham;"

V-349 [Revised]

From Seattle, WA; INT Seattle 329° and Bellingham, WA, 191° radials; Bellingham; to Williams Lake, BC, Canada. The airspace within Canada is excluded.

Issued in Washington, DC, on October 2, 1991.

Jerry W. Ball,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91-24465 Filed 10-9-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 26433; Amendment No. 91-225]

RIN 2120-AD96

Transition to an All Stage 3 Fleet Operating in the 48 Contiguous United States and the District of Columbia Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: The final rule amending the airplane operating rules to require a phased transition to an all Stage 3 fleet operating in the 48 contiguous United States and the District of Columbia, published in the **Federal Register** on September 25, 1991 (56 FR 48628), contained minor errors. This document corrects those errors.

EFFECTIVE DATE: September 25, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. William Albee, Manager, Policy and Regulatory Division (AEE-300), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267-3553.

SUPPLEMENTARY INFORMATION: On September 25, 1991, the FAA published a final rule requiring a transition to an all Stage 3 fleet of airplanes operating in the contiguous United States. That document contained some minor errors, none of which the FAA anticipates will have any substantive effect on persons affected by the final rule. These errors are discussed briefly below.

The first error occurred in § 91.855(f)(1)(iii), in which a comma between the words "trust" and "partnership" was omitted. The section tracks the language of § 9309(c)(1)(C) of the Airport Noise and Capacity Act of 1990.

The second error also occurred in § 91.855(f)(1)(iii); the correct cross reference is to (f)(1) (i) or (ii), not (g)(1) (i) or (ii).

The third error occurred in § 91.861(b), concerning the description of the base level for foreign air carriers. The words that were omitted in the publication of the final rule help to clarify the base level calculation for foreign air carriers.

The fourth error occurred in § 91.873(c) and is an unclear reference to "that section." The reference is to the waiver provision itself.

The fifth error occurred in § 91.875(a) and refers to report certification by a carrier; the term should have been "operator."

The sixth error occurred in § 91.875(c)(3), which contains a reference to reporting progress toward compliance with § 91.863. That reference should be to § 91.853.

Accordingly, in **Federal Register** document number 91-22950, published September 25, 1991, at 56 FR 48628, make the following corrections:

§ 91.855 [Corrected]

1. On page 48658, column 2, § 91.855, paragraph (f)(1)(iii), line 2, insert a comma between the words "trust" and "partnerships".

2. On page 48658, column 3, § 91.855, paragraph (f)(1)(iii), lines 1 and 2, replace the cross reference "(g)(1) (i) or (ii)" with "(f)(1)(i) or (ii)".

§ 91.861 [Corrected]

3. On page 48659, column 1, § 91.861, paragraph (b) introductory text, line 4, the words "airplanes on U.S. operations" is corrected to read "airplanes that were listed on that carrier's U.S. operations".

§ 91.873 [Corrected]

4. On page 48660, column 2, § 91.873, paragraph (c), lines 5 and 6, replace the phrase "of that section" with the phrase "of this section".

§ 91.875 [Corrected]

5. On page 48660, column 2, § 91.875, paragraph (a) introductory text, at the end of the 11th line, replace the word "carrier" with the word "operator".

6. On page 48660, column 2, § 91.875, paragraph (a)(3) introductory text, at the end of the third line, change the section referenced from "§ 91.863" to "§ 91.853."

Issued in Washington, DC, on October 2, 1991.

Donald P. Byrne

Assistant Chief Counsel for Regulations and Enforcement.

[FR Doc. 91-24166 Filed 10-9-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 91-87]

Stevedoring Equipment and Materials—Coastwise Transportation on Non-Coastwise-Qualified Vessels

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final interpretive rule.

SUMMARY: This document clarifies and retains the long-standing Customs Service interpretation of one element of the coastwise merchandise transportation statute. An earlier published notice proposed to limit a benefit conferred by the statute solely to vessels carrying stevedoring equipment for use on the transporting vessel itself. Customs has concluded a review of the comments received and has determined not to change its position, but instead to clarify that position with regard to certain limited vessel chartering arrangements as well as the definition of stevedoring equipment and materials. No substantive change in the administration of the statute results from either of these clarifications.

EFFECTIVE DATE: October 10, 1991.

FOR FURTHER INFORMATION CONTACT: Larry L. Burton, Carrier Rulings Branch, 202-566-5706.

SUPPLEMENTARY INFORMATION:

Background

By publication in the **Federal Register** of May 23, 1990 (55 FR 21204), Customs proposed to change its position regarding the transportation of stevedoring equipment and material between coastwise points by non-qualified vessels. The cited notice solicited public comments on the proposed change which would have required that such equipment and material be used only to load and unload the transporting vessel.

Title 46, United States Code Appendix, section 883 (46 U.S.C. app. 883), commonly called the Jones Act, provides, in part, that no merchandise shall be transported between points in the United States embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any vessel other than a vessel built in and documented under the laws of the United States and owned by citizens of the United States. Section 883 was amended by the Act of September 21, 1965 (Pub. L. 89-194, 79 Stat. 823), which added the sixth proviso, and by the Act of August 11, 1968 (Pub. L. 90-474, 82 Stat. 700), which amended that proviso.

The 1965 Act exempted from the provisions of section 883 the coastwise transportation of empty cargo vans, empty lift vans, and empty shipping tanks in non-coastwise-qualified United States-flag vessels or foreign-flag vessels, on a reciprocal basis, when the vans and tanks are owned or leased by the owner or operator of the transporting vessels and are being transported for use in the carriage of cargo in foreign trade. The 1968 Act added equipment for use with cargo vans, lift vans, and empty shipping tanks, empty barges specifically designed for carriage aboard a vessel, and certain empty instruments of international traffic to the articles included within the sixth proviso. These articles and the articles covered by the 1965 Act were required by the 1968 Act to be owned or leased by the owner or operator of the transporting vessel and transported for his use in handling his cargo in foreign trade.

The 1968 Act also added stevedoring equipment and material to the articles included within the sixth proviso. To qualify for exemption from section 883 under the sixth proviso, the stevedoring equipment and material must be owned or leased by the owner or operator of the transporting vessel or owned or leased by the stevedoring company contracting for the lading or unlading of the vessel and the stevedoring equipment and material must be transported without charge for use in the handling of cargo in foreign trade.

In its interpretation of the sixth proviso insofar as it relates to stevedoring equipment and material, Customs has never taken the position that stevedoring equipment and material transported under the proviso is required to be used exclusively for loading or unloading the transporting vessel. In one ruling on this subject (File: VES-3-17-CO:R:P:C 109629/109464 PH, July 21, 1988) Customs held that a vessel of a foreign country which grants reciprocal treatment to vessels of the United States and which was bareboat chartered by the owner of certain cranes, could be used to transport the cranes between United States points when those cranes were to be used to load and unload cargo of the owner of the cranes into or from vessels other than the specific vessel which transported the cranes.

Customs received a request on behalf of an owner and operator of United States-flag coastwise-qualified vessels to reverse this position and to issue a new interpretation of the sixth proviso under which stevedoring equipment and material transported under the sixth proviso must be employed exclusively for the purpose of loading and unloading the transporting vessel. The party requesting that action contended that the Customs position is inconsistent with the intent of the Congress in its enactment of the 1968 Act adding stevedoring equipment and material to the sixth proviso and that the proposed interpretation was consistent with expressed Congressional intent. It was urged that there are indications in the legislative history that the stevedoring equipment and material provision added to the sixth proviso by the 1968 Act was intended to apply only to stevedoring equipment and material used to load and unload the vessel transporting the stevedoring equipment and material (114 Cong. Rec. 21480, 21481 (1968) (remarks of Representatives Mailliard, Green, and Dellenback); H. Rep. No. 1712, 90th Cong., 2nd Sess. (1968) (page 2, quoting the comments of the Department of Commerce); and Sen. Rep. No. 1485, 90th Cong., 2nd Sess. (1968) (reprinted at 1968 U.S.C.C.A.N. 3185) (July 19, 1968, letter from General Counsel of the Department of Commerce)). It has also been suggested that there is language in the sixth proviso itself indicating that this was the intent of the provision relating to stevedoring equipment and material (i.e., "stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel * * * " (emphasis added)).

Customs suspended the issuance of rulings on the issue during the pendency of notice and comment procedures. The view put forward for comment was that the stevedoring equipment and material provision added to the sixth proviso by the 1968 Act was intended to apply only

to stevedoring equipment and material used to load and unload the vessel transporting the stevedoring equipment and material. Customs stated that it was considering the revocation of its July 21, 1988, ruling (*supra*) and similar rulings and the issuance of a new ruling holding that stevedoring equipment and material transported under the sixth proviso must be used exclusively for loading and unloading the transporting vessel.

Analysis of Comments

Customs received sixteen (16) comments in response to its published solicitation of May 23, 1990. Fourteen (14) of the comments were filed in opposition to the proposed change, and two (2) were filed in support.

A general theme was reflected in those comments which opposed any change, that being that the contemplated change would be contrary to the legislative history and intent of the statute and would hinder the efficient use of stevedoring equipment.

The two comments received in support of a changed position also expressed like opinions. Generally, it was urged that the comments of Representatives Mailliard, Green, and Dellenback are dispositive of the issue of limitation of the benefits of the provision exclusively to the transporting vessel. The essence of the argument is that the subject portion of the sixth proviso is meant only to facilitate incidental transportation of stevedoring equipment and materials. Customs, of course, had adopted the view expressed in two of the comments which supported a change at the time we initially published for comment. Upon further consideration, we have decided to adhere to our original position; however, some clarification is needed as to the parameters of permitted transportation.

After carefully reviewing the comments received in response to our published proposal to change the interpretation of the sixth proviso, and taking into account the language of the law and the legislative history, we do not accept the view that the proviso is intended to limit the use of stevedoring equipment which is transported aboard a particular vessel from one U.S. port to another, to operations concerning that vessel and none other in its port of use. No acceptable argument is made as to why subparagraph (e) is to be considered differently than subparagraphs (a) through (d) in the same proviso, which are not vessel-specific. The law is clear that the vessel providing the transportation must, itself, be the object of use of the stevedoring equipment. It is, however, a strained reading of the statute to find that the use of such equipment is limited solely to that vessel. The language concerning the exclusive use on the same vessel logically applies only to the equipment transported for stevedoring companies. Same vessel use is merely a means of insuring that the equipment will be transported free of freight charges by the vessel operator, as required by the statute. The vessel operator is induced to transport the equipment at no charge in exchange for that equipment being used to lade or unlade that vessel. The placement of punctuation within the subparagraph supports this view. Since subparagraph (e) applies to non-vessel-operating entities (stevedoring companies) it is not logical that the law would require that such companies carry vessel-specific equipment in their inventories. Further, such companies cannot be expected to allow their capital assets (equipment) to sit idle after having been used to lade or unlade a single vessel. Under the proposed change in interpretation, future use of that equipment would be prohibited until it was transported elsewhere for another one-time use. The general purpose behind enactment of the sixth proviso was to facilitate commerce, which purpose is best promoted by our existing interpretation.

Statement of Position

After a review of all comments submitted as well as all pertinent legal authority, Customs has determined not a adopt a change in the current interpretation regarding the transportation of stevedoring equipment and materials under subparagraph (e) of the sixth proviso to 49 U.S.C. app. 883. We do, however, wish to offer clarification regarding two points.

First, we wish to address the portion of the proviso which requires that stevedoring equipment and supplies be "transported without charge". The case which initially gave rise to this entire examination of our position involved the transportation of a large cargo crane aboard a non-coastwise-qualified vessel which had been chartered for the purpose of accomplishing that one movement. We allowed the transportation in that case because the vessel was registered in a country which grants reciprocity to United State-flag vessels. Overlooked in that case, however, was the statutory requirement that materials transported under the proviso be carried at no charge. Obviously when the underlying purpose of a vessel's charter is a single transportation, the charter fee is properly considered a charge incurred for the movement. In the future, such movements will not be permitted under the sixth proviso. This clarification will have no effect on the Customs position regarding bareboat charter arrangements generally. When a vessel company is operating a vessel under a bareboat charter and as part of an ongoing usage engages in a movement such as is here under consideration, so long as the other conditions of the statute are met the transportation will be permitted.

Second, there has been some confusion over the definition employed by Customs to identify exactly what is meant by stevedoring equipment and supplies. For the purposes of this statute, Customs considers such items to be limited to equipment which is necessary to unlade cargo from its place of stowage aboard a vessel to its first place of rest on the shore, or to lade cargo from its last place of rest on the shore to its place of stowage aboard a vessel. This definition eliminates from consideration any equipment used to manipulate cargo while it is ashore.

Drafting Information

The principal author of this document was Larry L. Burton, Carrier Rulings Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other officers participate in its development.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: September 24, 1991.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 91-24482 Filed 10-9-91; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Devices and Radiological Health

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Commissioner of Food and Drugs is redelegating authorities to certain officials of the Food and Drug Administration's (FDA's) Center for Devices and Radiological Health (CDRH) to temporarily suspend premarket approval applications and to recall devices in the event those devices would cause serious adverse consequences to health or death. These

authorities were given to the FDA by the Safe Medical Devices Act of 1990.

EFFECTIVE DATE: October 10, 1991.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: On November 28, 1990, the President signed into law the Safe Medical Devices Act of 1990 (SMDA) (Pub. L. 101–629, which amends the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*)). The purpose of the new legislation is to strengthen the Medical Device Amendments of 1976, the first legislation to provide a comprehensive framework to regulate medical devices, and to further ensure the safety and effectiveness of medical devices by providing the agency tools to quickly remove dangerous and defective articles from the market. Two such tools that the SMDA provided the Secretary are authority to temporarily suspend the approval of an application of a device, and to recall devices. (See sections 515(e) and 518(e) of the act (21 U.S.C. 360e(c)(3) and 360h(e)).) Section 515(e)(3) of the act states that if, after providing an opportunity for an informal hearing, the Secretary determines there is a reasonable probability that the continuation of distribution of a device under an approved application would cause serious adverse health consequences or death, the Secretary shall by order temporarily suspend the approval of the application. Section 518(e) provides that if the Secretary finds that there is a reasonable probability that a device intended for human use would cause serious adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person to immediately cease distribution of such device, and to immediately notify health professionals and device user facilities of the order and to instruct such professionals and facilities to cease use of such device. Under 21 CFR 5.10(a), authority to exercise functions vested in the Secretary under the act are redelegated to the Commissioner of Food and Drugs. Under this regulation, the Commissioner of Food and Drugs is redelegating the temporary suspension and recall authorities under the act, sections 515(e)(3) and 518(e), to CDRH because these authorities are directly related to current CDRH operations and programs. Authority to recall devices under section 518(e) of the act is redelegated to the Director and Deputy Director, CDRH, and the Director and Deputy Director, Office of Compliance and Surveillance, CDRH. Authority to temporarily suspend premarket approval applications is redelegated to the Director and Deputy Director, CDRH, the Director, and Deputy Director, Office of Compliance and Surveillance, CDRH, and the Director, Deputy Director, and Associate Director, Office of Device Evaluation, CDRH.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 is revised to read as follows:

Authority: U.S.C. 504, 552, App. 2; 7 U.S.C. 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354–360F, 361, 362, 1701–1706, 2101–2672 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 2421, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1–300ff); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591.

2. New §§ 5.56 and 5.57 are added to subpart B to read as follows:

§ 5.56 Recall authority.

The following officials for medical devices assigned to their respective organizations are authorized to determine under section 518(e) of the Federal Food, Drug, and Cosmetic Act, that there is reasonable probability that a device intended for human use would cause serious adverse health consequences or death and to issue an order, upon making such a determination, requiring appropriate persons, including manufacturers, importers, distributors, or retailers of medical devices, to cease distribution immediately and to notify immediately health professionals and device user facilities of the order and to instruct such professionals and facilities to cease use of the device:

(a) The Director and Deputy Director, Center for Devices and Radiological Health (CDRH).

(b) The Director and Deputy Director, Office of Compliance and Surveillance, CDRH.

§ 5.57 Temporary suspension of a medical device application.

The following officials for medical devices assigned to their respective organizations are authorized under section 515(e) of the Federal Food, Drug, and Cosmetic Act, to determine that there is reasonable probability that continuation of the distribution of a device under an approved application would cause serious adverse health consequences or death, and upon making such a determination, to issue an order to temporarily suspend the approval of an application:

(a) The Director and Deputy Director, Center for Devices and Radiological Health (CDRH).

(b) The Director and Deputy Director, Office of Compliance and Surveillance, CDRH.

(c) The Director, Deputy Director, and Associate Director, Office of Device Evaluation, CDRH.

Dated: October 3, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91–24463 Filed 10–9–91; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 42

[Public Notice 1499]

Visas: Documentation of Immigrants Under the Immigration and Nationality Act, as Amended; Immigrants Subject to Numerical Limitations

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends part 42 of title 22, Code of Federal Regulations, to implement the provisions of sections 121, 152, and 162 of Public Law, 101–649, Immigration Act of 1990. Sections 121 and 162 relate to special immigrants designated as employment-based fourth preference immigrants, and section 152 relates to extension of special immigrant status to certain employees of the Consulate General in Hong Kong and their family members. These regulations are being added to

§ 42.32(d)(2) (formerly § 42.25) and reflect the amendments of the Immigration Act of 1990.

The regulations in this interim rule incorporate the essence of the regulations in former § 42.25 and equivalent material relating to certain employees, and their families, of the Consulate General in Hong Kong plus measures associated with the petition requirement. As such, they are mandated for conformity with the statute. Because of this and the time constraints imposed by the effective date of the statutory provisions (October 1, 1991), they are being published as an interim rule with request for comments.

DATES: This interim rule is effective October 1, 1991. Comments are invited and must be received on or before November 12, 1991.

ADDRESSES: Comments may be submitted in duplicate to: Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Services, Department of State, Washington, DC, 20522–0113, (202) 663–1184.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations, and Advisory Assistance, Visa Services, Department of State, Washington, DC, 20522–0113, (202) 663–1184.

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act, as enacted, continued the prior statutory exemption from numerical limitations of certain classes of aliens by designating them as "special immigrants" under INA 101(a)(27). Under current law, applicants for such status have only to satisfy the consular officer that they meet the criteria for the specific class as described in an appropriate paragraph of INA 101(a)(27).

Changes Made by the Immigration Act of 1990

The Immigration Act of 1990 designated all but two (returning residents and certain expatriates) of the "special immigrant" classes as employment-based fourth preference immigrants, thus subjecting them for the first time not only to numerical restrictions but also to a petition requirement. Under the new provisions, all but one of the affected classes will have to satisfy the petition-adjudicating officer of the INS that they are qualified for such status in order to obtain status under INA 203(b)(4). The exception is INA 101(a)(27)(D), which accords special immigrant status to certain employees and former employees of the United States Government abroad, and will require the filing of a petition with the Secretary of State.

Classification under INA 101(a)(27)(D)

Classification of certain employees as special immigrants was requested by the Department of State at the time of consideration of the 1952 legislation. This status became INA 101(a)(27)(D). Under its terms, the principal officer of a Foreign Service post has to recommend such status for the employee or retiree under exceptional circumstances and the recommendation has to be approved by the Secretary of State in the national interest. The new petition requirement to acquire status under INA 203(b)(4) has not supplanted the criteria or procedures for approval of special immigrant status under INA 101(a)(27)(D). It is an additional step, levied after the Secretary's approval of special immigrant status has been granted.

Employees of Consulate General at Hong Kong

The Immigration Act of 1990 also authorized the inclusion of employees of the Consulate General in Hong Kong as special immigrants under INA 101(a)(27)(D) under different criteria. The regulations in § 42.32 (d)(2)(i) and (d)(2)(ii) therefore contain not only the gist of the current regulations relating to the requirement for the Secretary's grant of special immigrant status for long-term employees but also the subset of statutory requirements for those employed in Hong Kong.

Discussion of Regulations

The regulations herein are essentially straight-forward and self-explanatory but two aspects of the regulations deserve, perhaps require, additional explanation. One is the time limit for petitioning following the Secretary's grant of special immigrant status and the other relates to the fee requirement.

Time Limit for Petitioning

There has long been a procedural requirement that employees acquiring special immigrant status use it to obtain a visa and admission within one year. This was based on the premise that acquisition of such status should not be simply a "safety-valve", and is analogous to the "termination of registration" provision in INA 203(g), as redesignated. (Experience had shown, over a number of years prior to enactment of the termination provision in 1965, that many aliens who had no immediate intention of immigrating nonetheless sought immigrant status solely to protect themselves against a possible change in circumstances that would make immigration desirable or even necessary.) The administrative procedure relating to the prompt use of special immigrant status has been formalized in regulations as a part of the petition requirement.

Fee Requirement

Clearly, government employees could not be exempted from payment of a fee, inasmuch as INS has petition filing fees to acquire status under the other preferences and undoubtedly will for the other special immigrants blanketed under INA 203(b)(4). On the other hand, the Service will base its fee on adjudication of the alien's entitlement to special immigrant status as well as the question of fourth preference. Only in the case of government employees is the adjudication procedure in two separate steps. As a matter of equity as well as practicality, therefore, the petition filing fee (when determined) for aliens described in INA 101(a)(27)(D) will include costs associated with the preliminary adjudication of special immigrant status as well as petition approval.

Other Changes

The regulations also address the petition requirement for both classes of aliens eligible for special immigrant status under INA 101(a)(27)(D). The petition requirement in itself has necessitated other regulatory provisions, such as priority date, at § 42.32(d)(2)(iii); validity period, § 42.32 (d)(2)(iv) and (d)(2)(v); fee, § 42.32(d)(2)(vi); and, under the circumstances, delegation of petition-approval authority, § 42.32(d)(2)(vii). (It is inconceivable that the Secretary, having found it in the national interest to grant special immigrant status, would deny the petition to accord preference status under INA 203(b)(4).)

This rule is not considered to be a major rule for purposes of E.O. 12291, nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The information collection requirement contained in this rule is being submitted to the Office of Management and Budget in compliance with the Paperwork Reduction Act of 1980.

List of Subjects in 22 CFR Part 42

Immigrants, Special immigrants, Visa petitions.

In view of the foregoing, part 42 to title 22 is amended by revising § 42.32(d).

PART 42—[AMENDED]

1. The authority citation is revised to read as follows:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1101 note; 8 U.S.C. 1153.

2. In section 42.32, paragraph (d)(2) is added to read as follows:

§ 42.32 Employment based immigrants.

* * * * *

(d) *Fourth Preference—Special immigrants.* (1) *Religious workers.* * * *

(2) *Certain U.S. Government employees*—(i) *General.* (A) An alien is classifiable under INA 203(b)(4) as a special immigrant described in INA 101(a)(27)(D) if a petition to accord such status has been approved by the Secretary of State. An alien may file such a petition only after, but within one year of, notification from the Department that the Secretary of State has approved a recommendation from the Principal Officer that special immigrant status be accorded the alien in exceptional circumstances and has found it in the national interest so to do.

(B) An alien may qualify as a special immigrant under INA 101(a)(27)(D) on the basis of employment abroad with more than one agency of the U.S. Government provided the total amount of full-time service with the U.S. Government is 15 years or more.

(C) Pursuant to INA 203(d), and whether or not named in the petition, the spouse or child of an alien classified under INA 203(b)(4), if not entitled to an immigrant status and the immediate issuance of a visa, is entitled to a derivative status corresponding to the classification and priority date of the beneficiary of the petition.

(ii) *Special Immigrant Status for Certain Aliens Employed at the United States Mission in Hong Kong.* (A) An alien employed at the United States Consulate General in Hong Kong under the authority of the Chief of Mission or an alien employed pursuant to section 5913 of title 5 of the United States Code is eligible for classification under INA 203(b)(4) as a special immigrant described in INA 101(a)(27)(D) provided:

(*1*) The alien has performed faithfully for a total of three years or more;

(*2*) The alien is a member of the immediate family of an employee entitled to such special immigrant status; and

(*3*) The welfare of the alien or the family member is subject to clear threat due directly to the employee's employment with the United States Government or under a United States Government official; and

(*4*) Subsequent to the Secretary's approval of the Principal Officer's recommendation and finding it in the national interest to do so, but within one year thereof, the alien has filed a petition for status under INA 203(b)(4) which the Secretary has approved.

(B) An alien desiring to benefit from this provision must seek such status not later than January 1, 2002.

(C) For purposes of § 42.32(d)(2)(ii)(A), the term "member of the immediate family" means the definition (as of November 29, 1990) in Volume 6 of the Foreign Affairs Manual, section 117k, of a relative who has been living with the employee in the same household.

(iii) *Priority Date.* The priority date of an alien seeking status under INA 203(b)(4) as a special immigrant described in INA 101(a)(27)(D) shall be the date on which the petition to accord such classification is filed. The filing date of the petition is that on which a properly completed form and the required fee are accepted by a Foreign Service post.

(iv) *Petition Validity.* Except as noted in this paragraph, the validity of a petition approved for classification under INA 203(b)(4) shall be six months beyond the date of the Secretary of State's approval thereof or the availability of a visa number, whichever is later. In cases described in § 42.32(d)(2)(ii), the validity of the petition shall not in any case extend beyond January 1, 2002.

(v) *Extension of Petition Validity.* If the principal officer of a post concludes that circumstances in a particular case are such that an extension of the validity of the Secretary's approval of special immigrant status or of the petition would be in the national interest, the principal officer shall recommend to the Secretary of State that such validity be extended for not more than one additional year.

(vi) *Fees.* The Secretary of State shall establish a fee for the filing of a petition to accord status under INA 203(b)(4) which shall be collected following notification that the Secretary has approved status as a special immigrant under INA 101(a)(27)(D) for the alien.

(vii) *Delegation of Authority to Approve Petitions.* The authority to approve petitions to accord status under INA 203(b)(4) to an alien described in INA 101(a)(27)(D) is hereby delegated to the chief consular officer at the post of recommendation or, in the absence of the consular officer, to any alternate approving officer designated by the principal officer. Such authority may not be exercised until the Foreign Service post has received formal notification of the Secretary's approval of special immigrant status for the petitioning alien.

* * * * *

Dated: September 18, 1991.

John H. Adams,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 91–24392 Filed 10–9–91; 8:45 am]

BILLING CODE 4710–06–M

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22 CFR Part 42

[Public Notice 1498]

Visas: Documentation of Immigrants Under the Immigration and Nationality Act, as Amended; Numerical Controls and Priority Dates Under the INA as Amended by Public Law 101–649

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends part 42 to title 22, Code of Federal Regulations (1) to implement the provisions of sections 101, 102, 104, 111 and 121 of Public Law 101–649, and (2) to incorporate the provisions of section 112 of the same act. The regulations at §§ 42.51, 42.52, 42.53, and 42.54 reflect changes mandated for conformity with the statute. The regulation at § 42.55 reflects an editorial change deleting a reference which is no longer applicable.

DATES: This interim rule is effective October 1, 1991. Written comments are invited and must be received on or before November 12, 1991.

ADDRESSES: Comments may be submitted in duplicate to: Director, Office of Legislation, Regulations and Advisory Assistance, Visa Services, Department of State, Washington, DC 20522–0113.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations and Advisory Assistance, (202) 663–1184.

SUPPLEMENTARY INFORMATION:

Background

Immigration and Nationality Act (INA)

The Immigration and Nationality Act (INA) has long contained three standards for the distribution of immigrant visa numbers:

(1) They must be allocated in the order in which petitions according status were filed—INA 203(c) which will become 203(e) on October 1, 1991;

(2) Natives of a single country may not receive more than 20,000 in a fiscal year—INA 202(a); and

(3) Allocations to countries subject to INA 202(e) (i.e., those who had been allocated 20,000 the prior year) have to conform to the preference percentages.

The latter two requirements were expressly designed to be a brake on the application of the first. The INA 202(a) provision dates to 1965, and the legislative history shows it was intended to prevent any country (or small group of countries) from pre-empting all the visa numbers as a result of huge backlogs that had developed during the operation of the national origins quota system.

Thus, for example, even if, in strict chronological order, the first 40,000 applicants in a preference were the natives of Italy or China (both had large preference backlogs when the 1965 Act was under consideration), the per-country limit alone effectively prevented the Department of State from allocating such preference numbers exclusively to natives of that country. In other words, despite the generally-applicable absolute chronological requirement of INA 203(c), Congress also provided that, in certain circumstances, applicants with earlier priority dates would be bypassed so that others would be able to immigrate.

Similarly, concern was being expressed by the early 1970's about the effect of the INA 203(a) requirement that visas be allocated in the order of the preference classes. In some instances, this led to the pre-emption of all the numbers available under the per-country ceiling by the first 2 or 3 preference classes, thus denying visas to members of the lower preferences from that country and increasing backlogs in those classes. In other cases, a majority of visa numbers in a given preference were being pre-empted by the natives of one country with a substantial demand in that preference by applicants with very early priority dates. In 1976, therefore, Congress enacted another provision [INA 202(e)] to negate the combined effect of INA 203(a) and 203(c).

In short, Congress appears to have intended that applicants be taken in priority date order to the extent practicable, although it did not so state.

Procedures in Allocating Numbers

The system employed by the Department of State to implement these several, seemingly conflicting, provisions has been to allocate approximately 1/12th of total numbers for each class each month. Relying on reasonable estimates, in accordance with INA 203(g), as redesignated by the Immigration Act of 1990, it has been quite possible to know, for example, that natives of country "x" will be limited to 5200 2nd preference numbers (plus "fall down", if any) during the fiscal year under INA 202(e). After making allowance for that many applicants, it has then been permissible, indeed required, to bypass other applicants chargeable to that country and allocate 2nd preference numbers to applicants next in line from other countries. It must be emphasized that whether country "x" receives its 5200 2nd preference numbers over the 12 months or in the first few months of the fiscal year, the necessity to "skip over" the remaining applicants chargeable to country "x" having the earliest priority dates, despite INA 203(c), would still exist. The only alternative would be a total bar against 2nd preference issuance anywhere else in the world, thus causing upwards of 100,000 2nd preference numbers to fall to the lower preferences. This was clearly not the intent of Congress as it would defeat the Congressional purpose in establishing a ratio within total visa numbers attributed to the various classifications in INA 202(e) and 203(a).

The allocation system employed not only complied with the intent of Congress. It also made for orderly processing at posts around the world. Staffing problems rarely, and only transitorily, caused "administrative backlogs", i.e., a situation in which a post's qualified demand and permissible allocations exceeded the post's capability to process that amount of cases.

Section 102 of Public Law 101–649

Section 102 of the Immigration Act of 1990 amended INA 202 in a dramatic fashion by providing that 75% of the visa numbers set aside for 2nd preference spouses and children would not be charged against the per-country ceiling. In short, it removed the brake on "over-allocating" to natives of a single country.

This seems a very understandable response to the development of immense backlogs in 2 or 3 countries that result in such disparities as a 2nd preference cutoff date of 7–01–80 for Mexico, 9–22–83 for the Philippines, 4–08–87 for the Dominican Republic but 10–15–88 for the rest of the world (as of the date of enactment). This statutory change will have a drastic effect, however, on the resulting distribution of visa numbers and, to a lesser extent, on the allocation system.

Section 203(a)(2)(A) of the Immigration and Nationality Act, as amended by Public Law 101–649

Current backlogs show that Mexico has approximately 22,000 second preference applicants with priority dates earlier than those of applicants from any other country, and that about 8,000 natives of the Philippines would next be competitive (along with an additional 24,000 Mexicans) for 2A "per-country ceiling exempt" visas before applicants from any other country could be considered.

Although those applicants will be first in line for the "per-country ceiling exempt" visa numbers, the law still provides a braking mechanism similar in effect to the former INA 202(e) formula. The new formulation forbids the use of 2A "per-country ceiling counted" numbers by applicants chargeable to an oversubscribed country that receives more 2A "exempt" numbers than the pro-rata share of 2A numbers would total. In effect, this Provision will Permit concurrent allocations of 2A "exempt" and 2A "counted" visa numbers.

Specifically, as documentarily qualified demand is reported to the Department, the priority dates are tabulated (without regard to the country of chargeability of the applicants) in strict chronological sequence. Thereafter, in allocating approximately 8000 2A visa numbers each month, the first 75% (i.e., 6000) will be allocated for applicants with the 6000 earliest priority dates. Since, as noted, the cutoff date for Mexico has long been years earlier than other 2nd preference cutoff dates, the vast majority of those 6000 numbers will go to persons chargeable to Mexico.

Nonetheless, there are always a few applicants scattered around the world who do not, for one reason or another, apply for a visa as soon as possible. Therefore, there will almost inevitably be some documentarily qualified applicants with priority dates as early as some of those chargeable to Mexico. It does not matter, however, what country one is from. If the priority date is within the first 6000, a "per-country exempt" visa number will be allocated.

The remaining 25% of the Family 2A numbers can then be allocated to the applicants from other countries next in line, because of the prohibition against use of such numbers by certain countries as noted above. Mexico, and probably the Philippines in FY–92, can be expected to receive 2A per-country exempt numbers in excess of a pro-rata total. As a result, in allocating the final 2000 2A numbers, priority dates of applicants chargeable to Mexico and Philippines must be bypassed. Documentarily qualified applicants from all other countries will receive allocations from this 2000 numbers pool.

Discussion of Regulations

The Department is therefore amending the numerical control regulations in § 42.51 not only to reflect the new numerical limitations but also to provide for simultaneous allocation of INA 203(a)(2)(A) per-country-limit-exempt and (2)(A) per-country-limit-counted visa numbers as set forth below.

The amendments made in the other sections require less explanation. The Immigration Act of 1990 added several classes of aliens subject to a numerical limitation other than those under INA 201, 202 and 203; it also abolished the nonpreference class. Several of the new classes, e.g., diversity transition immigrants, are covered in other parts of title 22. On the other hand, spouses and children of legalized aliens under section 112 of the Immigration Act of 1990 are not; as family-sponsored second Preference immigrants, regulations pertaining to them are in § 42.31.

Accordingly, § 42.51(a) has been amended not only to accord with the new numerical limitations but also to provide for Departmental control over the limitation set forth in section 112. Section 42.51(d) contains minor editorial changes required by the inclusion of special immigrants in INA 203(b)(4).

Similarly, § 42.52(a) as amended herein requires records to be maintained also of aliens described in section 112 of the Immigration Act of 1990. Section 42.52(b) has been amended to (1) eliminate those bases of entitlement to status which related to the nonpreference class, (2) limit the INA 101(a)(27) reference to the only two special immigrant classifications that will not require petitions, and (3) add both Vietnam Amerasians and diversity immigrants under INA 203(c).

Section 42.53(a) has been amended to delete the reference to third and sixth preference applicants. Section 42.53(b) (which dealt with nonpreference applicants) has been deleted. Section 42.53(c) has been redesignated as § 42.53(b) and edited to remove the reference to nonpreference immigrants and to specify the new designations in INA 203. Section 42.53(d) has been redesignated as § 42.53(c), and contains a minor editorial change.

Section 42.54(a), as amended on May 3, 1991 (56 FR 2034), has been further amended editorially to (1) specify, in paragraph (a)(1), the revised designations of INA 203, (2) replace the current text of paragraph (2) with new text relating to diversity immigrants, and (3) delete paragraph (3) because of the inclusion of INA 101(a)(27) (E), (F) and (G) applicants in the employment-based fourth preference at § 42.32(d)(2) (which brings them within the terms of § 42.54(a)(1)). An editorial change was made in § 42.55 to delete the reference to the Panama Canal Act beneficiaries, who will now be reported as applicants under INA 203(b)(4).

This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. There is no collection of information under the Paperwork Reduction Act of 1980 required in this rule.

List of Subjects in 22 CFR Part 42

Immigrants, Numerical controls, Priority dates.

In view of the foregoing, title 22 of the Code of Federal Regulations, subpart F of part 42 is revised to read as follows:

PART 42—[AMENDED]

* * * * *

Subpart F—Numerical Controls and Priority Dates

Sec.

Subpart F—Numerical Controls and Priority Dates

§ 42.51 Department control of numerical limitations.

(a) *Centralized control.* (1) Centralized control of the numerical limitations on immigration specified in INA 201, 202, and 203 is established in the Department. The Department shall limit the number of immigrant visas that may be issued and the number of adjustments of status that may be granted to aliens subject to these numerical limitations to a number:

(i) Not to exceed 27 percent of the world-wide total made available under INA 203 (a), (b) and (c) in any of the first three quarters of any fiscal year; and

(ii) Not to exceed, in any month of a fiscal year, 10% of the world-wide total made available under INA 203 (a), (b) and (c) plus any balance remaining from authorizations for preceding months in the same fiscal year.

(2) The Department shall control the limitation set forth in section 112 of the Immigration Act of 1990, under which not more than 10% of the total numbers plus any numbers remaining from authorizations for preceding months shall be allocated in any month of a fiscal year.

(b) *Allocation of numbers.* Within the foregoing limitations, the Department shall allocate immigrant visa numbers for use in connection with the issuance of immigrant visas and adjustments based on the chronological order of the priority dates of visa applicants reported by consular officers pursuant to § 42.55(b) and of applicants for adjustment of status as reported by officers of the INS, taking into account the limitations prescribed in INA 202(e) in the allocation of visa numbers under INA 212(a)(4)(B) and INA 203(a)(2)(A).

(c) *Recaptured visa numbers.* An immigrant visa number shall be returned to the Department for reallocation within the fiscal year in which the visa was issued when:

(1) An immigrant having an immigrant visa is excluded from the United States and deported;

(2) An immigrant does not apply for admission to the United States before the expiration of the validity of the visa;

(3) An alien having a preference immigrant visa is found not to be a preference immigrant; or

(4) An immigrant visa is revoked pursuant to § 42.82.

(d) *Aliens subject to Panama Canal Act.* Centralized control of the numerical limitations on immigration specified in section 3201 of the Panama Canal Act of 1979 is established in the Department. The Department shall limit the number of visas that may be issued and the number of adjustments of status that may be granted to immigrants qualifying for visas under INA 203(b)(4) as aliens described in INA 101(a)(27) (E), (F) and (G) to a number not to exceed a total of 5,000 in any fiscal year beginning on or after October 1, 1979. If an alien as so described is excluded from the United States and deported or does not apply for admission to the United States before the expiration of the validity of the visa, or if a visa issued to such an alien is revoked pursuant to § 42.82, that fact shall be reported to the Department for recapture of the Panama Canal Act number.

§ 42.52 Post records of visa applications.

(a) *Waiting list.* Records of individual visa applicants entitled to an immigrant classification and their priority dates shall be maintained at posts at which immigrant visas are issued. These records shall indicate the chronological and preferential order in which consideration may be given to immigrant visa applications within the several immigrant classifications subject to the numerical limitations specified in

INA 201, 202, and 203 and section 112 of the Immigration Act of 1990. Similar records shall be kept for the classes specified in INA 201(b)(2) and 101(a)(27)(A) and (B) which are not subject to numerical limitations. The records which pertain to applicants subject to numerical limitations constitute "waiting lists" within the meaning of INA 203(e)(3), as redesignated by the Immigration Act of 1990.

(b) *Entitlement to immigrant classification.* An alien shall be entitled to immigrant classification if the alien:

(1) Is the beneficiary of an approved petition according immediate relative or preference status;

(2) Has satisfied the consular officer that the alien is entitled to special immigrant status under INA(101)(a)(27)(A) or (B);

(3) Is entitled to status as a Vietnam Amerasian under section 584(b)(1) of section 101(e) of Public Law 100–202 as amended by Public Law 101–167 and re-amended by Public Law 101–513; or

(4) Beginning in FY–95, is entitled to status as a diversity immigrant under INA 203(c).

(c) *Record made when entitlement to immigrant classification is established.* (1) A record that an alien is entitled to an immigrant visa classification shall be made on Form OF–224, Immigrant Visa Control Card, or through the automated system in use at selected posts, whenever the consular officer is satisfied—or receives evidence—that the alien is within the criteria set forth in paragraph (b) of this section.

(2) A separate record shall be made of family members entitled to derivative immigrant status whenever the consular officer determines that a spouse or child is chargeable to a different foreign state or other numerical limitation than the principal alien. The provisions of INA 202(b) are to be applied as appropriate when either the spouse or parent is reached on the waiting list.

(3) A separate record shall be made of a spouse or child entitled to derivative immigrant status whenever the consular officer determines that the principal alien intends to precede the family.

§ 42.53 Priority date of individual applicants.

(a) *Preference applicant.* The priority date of a preference visa applicant under INA 203 (a) or (b) shall be the filing date of the approved petition that accorded preference status.

(b) *Former Western Hemisphere applicant with priority date prior to January 1, 1977.* Notwithstanding the provisions of paragraph (a) of this section, an alien who, prior to January 1, 1977, was subject to the numerical limitation specified in section 21(e) of the Act of October 3, 1965, and who was registered as a Western Hemisphere immigrant with a priority date prior to January 1, 1977, shall retain that priority date as a preference immigrant upon approval of a petition according status under INA 203 (a) or (b).

(c) *Derivative priority date for spouse or child of principal alien.* A spouse or child of a principal alien acquired prior to the principal alien's admission shall be entitled to the priority date of the principal alien, whether or not named in the immigrant visa application of the principal alien. A child born of a marriage which existed at the time of a principal alien's admission to the United States is considered to have been acquired prior to the principal alien's admission.

§ 42.54 Order of consideration.

(a) *General.* Consular officers shall request applicants to take the steps necessary to meet the requirements of INA 222(b) in order to apply formally for a visa as follows:

(1) In the chronological order of the priority dates of all applicants within each of the immigrant classifications specified in INA 203 (a) and (b); and

(2) Beginning with fiscal year 1995, in the random order established by the Secretary of State for the fiscal year for all applicants entitled to status under INA 203(c).

(b) *Beneficiaries of section 155 of Public Law 101–649.* Notwithstanding paragraph (a) of this section, for fiscal years 1991 and 1992:

(1) The Department shall notify consular officers of the latest priority date, based on a reasonable estimate, for which visa numbers will probably be available worldwide under INA 203(a)(2) and (5) (in FY–91) and INA 203(a)(2) and (4) (in FY–92);

(2) Immediately after receipt of the Department's projected fiscal year ultimate priority date, if they have not previously done so, consular officers shall ensure that all natives of Lebanon who are beneficiaries of petitions conferring such status, approved no later than November 29, 1990, are notified promptly of the requirements the applicants must meet under INA 222(b) to apply formally for a visa. Such notifications sent to applicants not physically present in Lebanon may require, if necessary, additional information to enable the consular officer to determine whether or not the applicant is firmly resettled (as defined in 8 CFR 207.1(b)) in a country other than Lebanon;

(3) Upon a determination that the applicant is not firmly resettled in a country outside Lebanon, and that the applicant is documentarily qualified as provided in § 42.55(b), the consular officer shall so report any such preference Lebanese applicant and the Department shall promptly allocate a visa number for the use of such applicant.

§ 42.55 Reports on numbers and priority dates of applications on record.

(a) *Report of immigrant visa applicants subject to numerical limitations.* Consular officers shall report periodically, as the Department may direct, the number and priority dates of all applicants subject to the numerical limitations prescribed in INA 201, 202 and 203 and in section 112 of the Immigration Act of 1990 whose immigrant visa applications have been recorded in accordance with § 42.52(c).

(b) *Documentarily qualified applicants.* Consular officers shall also report periodically, as the Department may direct, the number and priority dates of all applicants described in paragraph (a) of this section who have informed the consular office that they have obtained the documents required under INA 222(b), for whom the necessary clearance procedures have been completed.

Dated: September 18, 1991.

John H. Adams,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 91–24393 Filed 10–9–91; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5c

[T.D. 8366]

RIN 1545–AN52

Real Estate Mortgage Investment Conduits; Reporting Requirements and Other Administrative Matters; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to Treasury Decision 8366 relating to real estate mortgage investment conduits (REMICs).

EFFECTIVE DATE: December 31, 1986.

FOR FURTHER INFORMATION CONTACT: James W. C. Canup, 202–566–6624 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulation which is the subject of this correction reflected changes made by section 1112 (b) and (e) of the Tax Reform Act of 1986, and sections 1011(h), 6055 and 6065 of the Technical and Miscellaneous Revenue Act of 1988.

Need for Correction

As published, the proposed regulation contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, Treasury Decision 8366 published September 30, 1991 (56 FR 49512), FR Doc. 91–22848, is corrected as follows:

PART 5c—[CORRECTED]

On page 49522, third column, in part 5c, instructional paragraph 8 and the authority for part 5c are corrected to read as follows:

Par. 8. The authority for part 5c continues to read as follows:

Authority: Secs. 168(f)(8)(G) and 7805 of the Internal Revenue Code of 1954 (95 Stat. 216; 26 U.S.C. 168(f)(8)(G), and 68A Stat. 916; 26 U.S.C. 7805), unless otherwise noted.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 91–24335 Filed 10–9–91; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners; Voting and Quorum Requirements

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: The Parole Commission is adopting a rule to clarify the voting and quorum requirements applicable to Commission decisionmaking when, by reason of vacancies among the nine Commissioner positions authorized by law, there are not enough Commissioners to meet the quorum and voting requirements that apply to certain types of cases. Such requirements are not established by law, but are contained in the Commission's regulations. It is the Commission's interpretation of 18 U.S.C. 4203(d) that any action taken by the Commission may be taken by a "majority vote of all individuals currently holding office as members of the Commission * * *" notwithstanding any regulation which specifies that a greater number of Commissioners is needed to reach a decision. It is the Commission's interpretation that, where there is a conflict between a regulation and the statute, the statute governs. Under this interpretation, the Commission's business will go forward until such time as additional Commissioners are appointed by the President, and take up their duties.

EFFECTIVE DATE: October 10, 1991.

FOR FURTHER INFORMATION CONTACT: Michael A. Stover, General Counsel, United States Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. Telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: Under the Sentencing Reform Act of 1984, as amended by Public Law 101–650, the United States Parole Commission is scheduled to go out of business on November 1, 1997. In the meantime, the Commission must continue to make decisions with respect to the parole, supervision, and revocation of all individuals sentenced to prison terms of more than one year for offenses committed prior to November 1, 1987.

Due to a number of resignations and deaths of Commissioners in recent years, the number of Commissioners has fallen to four Commissioners. Nine Commissioners are authorized by law. 18 U.S.C. 4202. Certain regulations of the Commission, however, require that a higher number of Commissioners be available to constitute a quorum and to reach a decision. See 28 CFR 2.17 and 2.27 (original jurisdiction cases).

Rather than amend these regulations to address what appears to be a temporary situation, the Commission has adopted the statutory interpretation that any decision may be made by a majority of the sitting Commissioners, notwithstanding any regulation to the contrary. Under the statute, 18 U.S.C. 4203(d), any decision authorized by law may be taken by a "majority vote of all individuals currently holding office as members of the Commission * * *" This provision necessarily overrides any regulation that would require a greater number of votes.

Moreover, the regulations in question do not specify a greater number of votes than the number that constituted a "majority vote of all individuals currently holding office as members of the Commission * * *" when the regulations were adopted. These regulations were adopted in the context of a nine-Commissioner agency. They were never intended to require more than a majority, in whose hands must rest the ultimate decisionmaking power vested in the Commission by law.

Upon the appointment and confirmation of a sufficient number of additional Commissioners, these regulations will again be in effect.

This interpretative regulation will not have a significant economic impact on a substantial number of small entities within the meaning of the regulatory flexibility act.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Probation and Parole, Prisoners.

PART 2—[AMENDED]

1. The authority citation for 28 CFR part 2 continues to read:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR part 2 is amended by adding a new § 2.67 to read as follows:

§ 2.67 Voting and Quorum Requirements.

Notwithstanding any regulation of the Commission, any Commission action authorized by law may be taken upon a majority vote of all individuals currently holding office as members of the Commission. The Commission shall not be prevented from convening a quorum, or taking any action authorized by law, by reason of the vacancy of Commissioner positions. This regulation interprets 18 U.S.C. 4203(d) (1976) as overriding any regulation of the Commission pertaining to quorum or voting requirements, if adherence to such regulation would either not be possible, or would require that an action be supported by more than a majority vote of all individuals currently holding office as members of the Commission.

Dated: September 19, 1991.

Carol Pavilack Getty,

Chairman, United States Parole Commission.

[FR Doc. 91–24246 Filed 10–9–91; 8:45 am]

BILLING CODE 4410–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 302-6

[FTR Amendment 21]

RIN 3090-AE34

Federal Travel Regulation; Increase in Maximum Reimbursement Limitations for Real Estate Sale and Purchase Expenses

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation to increase the maximum dollar limitations on reimbursement for allowable real estate sale and purchase expenses incident to a change of official station. The law (5 U.S.C. 5724a(a)(4)(B)) requires that the dollar limitations be updated effective October 1 of each year based on the percent change, if any, in the Consumer Price Index for All Urban Consumers, United States City Average, Housing Component, for December of the preceding year over December of the second preceding year. This final rule will have a favorable impact on Federal employees authorized to relocate in the interest of the Government since it increases relocation allowance maximums.

EFFECTIVE DATE: This final rule is effective October 1, 1991, and applies to employees whose effective date of transfer is on or after October 1, 1991. For purposes of this regulation, the effective date of transfer is the date on which the employee reports for duty at the new official station.

FOR FURTHER INFORMATION CONTACT: Raymond F. Price, Transportation Management Division (FBX), FTS 557-1253 or commercial (703) 557-1253.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 302-6

Government employees, Relocation allowances and entitlements, Transfers.

For the reasons set out in the preamble, 41 CFR part 302-6 is amended as set forth below.

PART 302-6—ALLOWANCE FOR EXPENSES INCURRED IN CONNECTION WITH RESIDENCE TRANSACTIONS

1. The authority citation for part 302-6 continues to read as follows:

Authority: 5 U.S.C. 5721-5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

2. Section 302-6.2 is amended by revising paragraphs (g) (1) and (2) to read as follows:

§ 302-6.2 Reimbursable and nonreimbursable expenses.

* * * * *

(g) *Overall limitations.* The total amount of expenses that may be reimbursed is as follows:

(1) In connection with the sale of the residence at the old official station, reimbursement shall not exceed 10 percent of the actual sale price or $20,115, whichever is the lesser amount; and

(2) In connection with the purchase of a residence at the new official station, reimbursement shall not exceed 5 percent of the purchase price or $10,057, whichever is the lesser amount.

* * * * *

Dated: September 24, 1991

Richard G. Austin,

Administrator of General Services.

[FR Doc. 91-24435 Filed 10-9-91; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6889

[NM-940-4214-10; NMNM 12480]

Withdrawal of National Forest System Lands for Taos Ski Valley and Red River Winter Sports Sites; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 2,310.38 acres of National Forest System lands in the Carson National Forest from location and entry under the United States mining laws for a period of 20 years for the Forest Service to protect the Taos Ski Valley and Red River Winter Sports Sites. The lands have been and will remain open to such forms of disposition as may by law be made of National Forest System lands and to mineral leasing.

EFFECTIVE DATE: October 10, 1991.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland, BLM New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87504-1449, 505-988-6071.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. ch. 2), but not from leasing under the mineral leasing laws, to protect two Forest Service winter sports sites:

New Mexico Principal Meridian

Carson National Forest

Taos Ski Valley Winter Sports Site

T. 27 N., R. 14 E., (unsurveyed)

Beginning at a point on the north boundary of the Antoine Leroux Grant as surveyed by John H. Walker, approved August 25, 1909; said point being M.C. No. 78 and mile corner No. 16 of Antoine Leroux Grant and point of beginning.

Thence S. 83°30' W., 2,046 feet to M.C. No. 77 of the Antoine Leroux Grant; thence south 5,346 feet; thence east 3,201 feet; thence south 2,640 feet; thence east 660 feet; thence south 1,320 feet; thence east 1,320 feet; thence south 3,960 feet; thence east 2,640 feet; thence north 2,640 feet; thence east 2,640 feet; thence north 2,508 feet; to a point on the Lake Fork Stream, said point being located on a line between the southwest corner of the Randall Tract "A" Exception No. 2 as surveyed by Charles L. Caldwell, September 9, 1947, and M.C. No. 79 of Antoine Leroux Grant; thence northerly along the middle of the Lake Fork Stream to the southeast corner of the Randall-Lewis Tract as surveyed by George P. Tune, July 1965; thence N. 88°01' W., 2,640 feet along the south boundary of the Randall-Lewis Tract to the southwest corner of the Randall-Lewis Tract; thence N. 44°31' W., 2,459.82 feet along the west boundary of the Randall-Lewis Tract to a point on the north boundary of the Antoine Leroux Grant; said point being located on a line between M.C. No. 78 and M.C. No. 79; thence S. 89°30' W., 1,881 feet to the point of beginning.

This tract, when surveyed, will probably be located within secs. 4, 5, 8, 9, 10, 15, 16, and 21, T. 27 N., R. 14 E.

Red River Winter Sports Site

T. 28 N., R. 14 E., (unsurveyed)

Beginning at the south corner common to secs. 35 and 36, T. 29 N., R. 14 E.;

thence south 1,914 feet; thence west 660 feet; thence south 660 feet; thence west 2,640 feet; thence north 2,574 feet; thence east 3,300 feet to point of beginning, containing approximately 185 acres.

This tract, when surveyed, will probably be located within secs. 1 and 2, T. 28 N., R. 14 E.

T. 29 N., R. 14 E.,

Sec. 35, lots 8 and 9, and SE¼;

Sec. 36, lots 20 and 21.

The areas described aggregate approximately 2,310.38 acres in Taos County, New Mexico.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the National Forest System lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: October 2, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-24396 Filed 10-9-91; 8:45 am]

BILLING CODE 4310-FB-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[Docket No. 91-119; FCC 91-304]

Administrative Practice and Procedure

AGENCY: Federal Communications Commission.

ACTION: Initial Policy Statement.

SUMMARY: The Commission has adopted an Initial Policy Statement and Order that supports and encourages the use of alternative dispute resolution (ADR) procedures in its administrative proceedings, as authorized under the Administrative Dispute Resolution Act (ADRA) and Negotiated Rulemaking Act (NRA). The Commission issued a Notice of Inquiry in this proceeding to examine the use of alternative dispute resolution procedures in Commission proceedings and proceedings in which the Commission is a party. [Initiating Document: Notice of Inquiry, 56 FR 20396, May 3, 1991, 6 FCC Rcd. 2267 (1991)] The comments submitted in response to the NOI generally support the use of alternative dispute resolution procedures. The ADRA requires the Commission to adopt a policy statement that examines the use of ADR in its processes. The NRA focuses on the use of alternative dispute resolution in agency rulemakings, and is intended to lead to more effective rules and less litigation through the establishment of committees for the developing of consensus positions concerning proposed rules.

EFFECTIVE DATE: October 10, 1991.

FOR FURTHER INFORMATION CONTACT: Sharon B. Kelley, Office of General Counsel, Federal Communications Commission (202) 632-6990.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Initial Policy Statement and Order adopted at its meeting on September 26, 1991. The full text of this Commission Initial Policy Statement and Order is available for inspection and copying during normal business hours in the FCC Docket Branch (room 230), 1919 M Street, NW., Washington, DC. The full text of this item may also be purchased from the Commission's copy contractor.

1. To implement its initial ADR policy, the Commission took the following steps. First, several months ago, it designated an agency ADR specialist to be responsible for implementation of the FCC's ADR policy. Second, the ADR specialist established an ADR working group with representatives from every Commission bureau and office to assist the ADR specialist in implementing the Commission's ADR program. The group will survey current Commission programs and identify areas and proceedings that might be amendable to alternative dispute resolution or negotiated rulemaking. Third, the Commission has begun reviewing its resources to determine the extent to which it can establish a training program for FCC personnel in order to institutionalize the skills and knowledge needed to make effective use of ADR procedures.

2. The Commission will also initiate an ADR Pilot Project to test the effectiveness of ADR procedures in the resolution of formal complaints brought pursuant to section 208 of the Communications, which are handled by the Enforcement Division of the Common Carrier Bureau.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Change

PART 1—[AMENDED]

Part 1 of title 47 of the CFR is amended as follows:

1. The authority citation for part 1 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

2. Section 1.18 is added to 47 CFR part 1, to read as follows:

§ 1.18 Administrative Dispute Resolution.

The Commission has adopted an initial policy statement that supports and encourages the use of alternative dispute resolution procedures in its administrative proceedings and proceedings in which the Commission is a party, including the use of regulatory negotiation in Commission rulemaking matters, as authorized under the Administrative Dispute Resolution Act and Negotiated Rulemaking Act.

[FR Doc. 91-24501 Filed 10-9-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 2

[Gen. Docket No. 89-349; DA 91-1201]

Importation of Radio Frequency Devices Capable of Causing Harmful Interference

AGENCY: Federal Communications Commission.

ACTION: Final Rule; Extension of time to file reply comments to Petitions for Reconsideration.

SUMMARY: By Order dated September 24, 1991, the Chief, Field Operations Bureau, granted an extension of time to October 24, 1991, to file reply comments to Petitions for Reconsideration and Oppositions filed thereto in the proceeding concerning importation of radio frequency devices capable of causing harmful interference (56 FR 26616, June 10, 1991). The grant serves the public interest by developing a full and complete record in the proceeding and in maximizing the useful participation of interested parties.

DATES: Reply comments must be filed on or before October 24, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Dan S. Emrick, Field Operations Bureau, (202) 632-6345.

Order

Adopted: September 24, 1991;

Released: September 30, 1991.

In the Matter of Amendment of Part 2 of the Rules Concerning the Importation of Radio Frequency Devices Capable of Causing Harmful Interference.

By the Chief, Field Operations Bureau.

1. On August 29, 1991, Apple Computer, Inc.; Matsushita Electric Corporation of America; Memorex Telex Corporation; Sony Corporation of America, Texas Instruments Incorporated; and Zenith Data Systems, by their respective attorneys, together with the Computer and Business Equipment Manufacturers Association, filed a joint request that the Commission extend the date for filing reply pleadings to petitions for reconsideration filed in the above-captioned proceeding. They assert that in light of their substantial agreement on the principal issues in the docket, they believe that they may be able to prepare, within 30 days, a Consolidated Reply setting forth a unified position on specific proposals for modification and clarification of new § 2.1204 of the Rules. They further assert that grant of their request would serve the public interest by increasing the probability of conserving Commission resources and expediting resolution of this proceeding.

2. The requesters provided certification that they had served a copy of their request upon all appropriate parties.

3. While we do not routinely grant extensions of time, we believe that the public interest in the development of a full and complete record in this proceeding would be best served and the maximum amount of useful participation by interested parties gained by allowing additional time for the filing of replies. Thus, we conclude that it is appropriate to extend the date for filing replies to thirty (30) days from the date of adoption of this order.

4. Accordingly, *It is hereby ordered*, pursuant to sections 4(j) and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. 154(j) and 155(c), and authority delegated thereunder pursuant to §§ 0.111 and 0.311 of the Commission's Rules, 47 CFR 0.111 and 0.311, that the joint request for extension of time *Is granted*, and that reply comments in this proceeding *Are to be Filed* on or before October 24, 1991.

Federal Communications Commission.

Richard M. Smith,

Chief, Field Operations Bureau.

[FR Doc. 91-24222 Filed 10-9-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 901184-1042]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of prohibition on retention of pelagic shelf rockfish.

SUMMARY: NMFS is prohibiting further retention of pelagic shelf rockfish by vessels fishing in the Eastern Regulatory Area of the Gulf of Alaska (Eastern Regulatory Area) and is requiring that pelagic shelf rockfish be treated in the same manner as a prohibited species in that region. The intent of this action is to promote optimum use of groundfish while conserving pelagic shelf rockfish stocks.

DATES: Effective 12 noon, Alaska local time (A.l.t.), October 5, 1991, through 12 midnight, A.l.t., December 31, 1991.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone of the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.92 for the foreign fisheries and at 50 CFR parts 620 and 672 for the U.S. fisheries.

The amount of a species or species group apportioned to a fishery, the total allowable catch (TAC), is defined at §§ 672.20(a)(2) and 672.20(c)(1). The final notice of 1991 initial specifications of groundfish established the TAC for pelagic shelf rockfish in the Eastern Regulatory Area as 900 metric tons (mt) (56 FR 8723; March 1, 1991).

Under § 672.20(c)(3), the Director, Alaska Region, NMFS, has determined that the TAC apportioned to the pelagic shelf rockfish fishery in the Eastern Regulatory Area will be reached by October 5, 1991. NMFS is publishing this notice in the **Federal Register** declaring that pelagic shelf rockfish is to be treated as a prohibited species under § 672.20(e) by vessels fishing in the Eastern Regulatory Area after 12 noon A.l.t. October 5, 1991.

Classification

This action is taken under 50 CFR 672.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 4, 1991.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91-24360 Filed 10-4-91; 4:46 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 197
Thursday, October 10, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 931

[Docket No. FV-91-406PR]

Establishment of Administrative Rules and Regulations for Marketing Order Covering Fresh Bartlett Pears Grown in Oregon and Washington

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement handler reporting requirements and communication procedures under Marketing Order No. 931. Several terms would also be defined in the rules and regulations for clarity and ease of reference. The proposal is needed to help facilitate administrative operations under the order and provide for the collection and dissemination of valuable statistical information. This action was unanimously recommended by the Northwest Fresh Bartlett Pear Marketing Committee (Committee) established under M.O. 931.

DATES: Comments must be received by October 25, 1991.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC. 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–475–3862.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement and Marketing Order No. 931 (7 CFR part 931) regulating the handling of fresh Bartlett pears grown in Oregon and Washington. The Bartlett pear marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Department Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of fresh Bartlett pears regulated under this marketing order each season and approximately 1,900 Bartlett pear producers in Washington and Oregon. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

The Committee met on May 30, 1991, and unanimously recommended the establishment of administrative rules and regulations covering handler reporting requirements and procedures and communication procedures. The Committee's recommendation also included definitions of terms to be used in the rules and regulations.

Section 931.60(a) of the order (7 CFR 931.60(a)) provides that the Committee, with the approval of the Secretary, may require that handlers furnish reports of pears received and disposed of and such other information as may be necessary for the Committee to perform its duties under the order.

Pursuant to § 931.60(a), the Committee recommended that rules be established at § 931.120 to require each handler to transmit to the Committee a "Semi-Monthly Report on Destination of Shipments and Assessment Payments" on the first and the fifteenth day of each calendar month during the shipping season (August through January). The estimated number of respondents for this collection of information is 78, with an estimated average reporting burden of 0.75 hours per response and an estimated annual reporting burden of 760 hours. This report would include the following information:

(1) The quantity of each variety of pears shipped by that handler during the preceding half month;

(2) The date of each shipment;

(3) The ultimate destination, by city and state, or city and country;

(4) The assessment payment due; and

(5) The name and address of such handler.

The Committee recommended that each handler also transmit a weekly packout report each Friday during the shipping season (August through January). The estimated number of respondents for this collection of information is 78, with an estimated average reporting burden of 0.50 hours per response and an estimated annual reporting burden of 507 hours. This report would contain the following information for each variety: (1) The projected total packout; (2) the packout to date; (3) the volume sold export (shipped/not shipped), domestic (shipped/not shipped) and shipped auction; (4) the packout to date in controlled atmosphere (C.A.) storage and the volume in C.A. storage which is sold; and (5) the name and address of such handler.

In addition to these reports, the Committee recommended that each handler furnish, upon request of the Committee, a pear size and grade storage report by variety which would include the quantity of specific grades and sizes of pears in regular and C.A. storage. The estimated number of respondents for this collection of information is 88, with an estimated average reporting burden of 0.67 hours

per response and an estimated annual reporting burden of 59 hours.

These reports contain valuable harvesting, packing and shipping information necessary for the Committee to carry out its program responsibilities and for handlers to make marketing decisions. Some Committee responsibilities include the collection of program assessments from handlers based on the quantities of pears shipped and making determinations as to whether Committee representation and production area districts accurately reflect pear production within the districts. The dissemination of the statistical information on production, packout and shipments to the industry by the Committee is essential to the sound and orderly marketing of Northwest fresh Bartlett pears.

The Committee also recommended that the following terms be defined in the rules and regulation for ease of reference and clarity:

Section 931.100 *Terms*—Each term used in this subpart shall have the same meaning as when used in the marketing agreement and order.

Section 931.101 *Marketing agreement*—"Marketing agreement" means Marketing Agreement No. 147, as amended regulating the handling of Bartlett pears grown in Oregon and Washington.

Section 931.102 *Order*—"Order" means Order No. 931, as amended (Sections 931.1 to 931.71), regulating the handling of Bartlett pears grown in Oregon and Washington.

Finally, the Committee recommended that an administrative rule be added addressing marketing agreement and order communications. This rule would appear at § 931.110 (7 CFR 931.110) and would specify that generally all reports, applications, submittals, requests, inspection certificates, and communications in connection with the marketing agreement and order shall be forwarded to the Northwest Fresh Bartlett Pear Marketing Committee at 813 SW Adler, suite 601, Portland, Oregon 97205–3182.

The proposed rule contains the recommended amendments of the Committee, with minor changes in terminology for clarity.

Based on the above, the Administrator of the AMS has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Two of the handler report forms (the "Semi-Monthly Report on Destination of Shipments and Assessment Payments" and the weekly packout report) that are contained in the regulations proposed to be added were approved by the Office of Management and Budget (OMB) in 1989 and were assigned OMB No. 0581–0092. This approval is valid through March 31, 1992. The third report form (the pear size and grade storage report) is being submitted to the OMB for approval based on current information on the number of respondents and estimated burden.

A comment period of 15 days is deemed appropriate because the 1991 crop year began on July 1, and any changes that may be adopted as a result of this proposal should be implemented as soon as possible thereafter.

List of Subjects in 6 CFR Part 931

Bartlett pears, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 931 be amended as follows:

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 931 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new heading entitled "Subpart—Rules and Regulations" and a new subheading entitled "Definitions" are added following § 931.71.

3. A new § 931.100 is added to read as follows:

§ 931.100 Terms.

Each term used in this subpart, unless otherwise defined, shall have the same meaning as when used in the marketing agreement and order.

4. A new § 931.101 is added to read as follows:

§ 931.101 Marketing agreement.

Marketing agreement means Marketing Agreement No. 147, as amended, regulating the handling of Bartlett pears grown in Oregon and Washington.

5. A new § 931.102 is added to read as follows:

§ 931.102 Order

Order means Order No. 931, as amended (Sections 931.1 to 931.71), regulating the handling of Bartlett pears grown in Oregon and Washington.

6. A new subheading entitled "Communications" is added following § 931.102.

7. A new § 931.110 is added to read as follows:

§ 931.110 Communications.

Unless otherwise specifically prescribed in this subpart or in the marketing agreement and order, or unless otherwise required by the Committee, all reports, applications, submittals, requests, inspection certificates, and communications in connection with the marketing agreement or order shall be forwarded to: Northwest Fresh Bartlett Pear Marketing Committee, 813 SW Alder, Suite 601, Portland, Oregon 97205–3182.

8. A new subheading entitled "Reports" is added following § 931.110.

9. A new § 931.120 is added to read as follows:

§ 931.120 Reports.

(a) Each handler shall transmit to the Committee on the first and the fifteenth day of each calendar month during the shipping season the "Semi-Monthly Report on Destination of Shipments and Assessment Payments" containing the following information:

(1) The quantity of each variety of pears shipped by that handler during the preceding half month;

(2) The date of each shipment;

(3) The ultimate destination, by city and state, or city and country;

(4) The assessment payment due; and

(5) The name and address of such handler.

(b) Each handler shall transmit to the Committee each Friday during the shipping season the "Weekly Northwest Bartlett Packout Report" containing the following information for each variety:

(1) The projected total packout;

(2) The packout to date;

(3) The volume sold export (shipped/not shipped), sold domestic (shipped/not shipped) and shipped auction;

(4) The packout to date in controlled atmosphere (C.A.) storage and the volume in C.A. storage which is sold; and

(5) The name and address of such handler.

(c) Each handler shall furnish to the Committee, upon request, the "Pear Size and Grade Storage Report" containing the quantity of specific grades and sizes of pears in regular and C.A. storage by variety.

Dated: October 7, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–24477 Filed 10–9–91; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 32

[Docket No. PRM-32-3]

Advanced Medical Systems, Inc.; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking: Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking dated June 28, 1991. The petition, which was filed with the Commission by Advanced Medical Systems, Inc., was docketed by the Commission on July 19, 1991, and has been assigned Docket No. PRM-32-3. The petitioner requests that the NRC amend its regulations that apply to the manufacturers and transferors of certain items containing byproduct material to specify that these provisions apply to the manufacturers and suppliers of replacement parts as well as the manufacturers and transferors of the original units.

DATES: Submit comments by December 9, 1991. Comments received after this date will be considered if it is practical to do so but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit written comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

For a copy of the petition, write: Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

The petition and copies of comments received may be inspected and copied for a fee at the NRC Public Document Room, 2120 L Street NW., Lower Level, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7758 or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION:

Background

On June 28, 1991, Advanced Medical Systems, Inc. (AMS) filed a petition for rulemaking with the Commission. Pursuant to 10 CFR 2.802, this petition was docketed by the Commission on July 19, 1991, and has been assigned Docket No. PRM-32-3. Advanced Medical Systems originally sent this petition to the NRC in a document dated July 2, 1990. However, this document was never received by the NRC. Therefore, the petitioner resubmitted the petition, without change, for consideration by the NRC.

The NRC has established requirements governing the issuance of specific licenses to persons who manufacture or initially transfer items containing byproduct material for sale or distribution under 10 CFR part 32. NRC regulations in 10 CFR part 21 require directors and responsible officers of firms and organizations that build, operate, or own NRC-licensed facilities or conduct NRC-licensed activities to report failures to comply with regulatory requirements and defects in components which may result in a substantial safety hazard.

The petitioner is an original equipment manufacturer licensed under 10 CFR part 32. The petitioner has a definite and direct interest in the health and safety of the public who may use or be treated by equipment it manufacturers.

According to the petitioner, it appears that the requirements of part 32 are being interpreted as applying only to manufacturers and suppliers of original equipment and not to manufacturers and suppliers of replacement parts, devices, products, or sources designated for units originally manufactured or transferred by others. The petitioner is concerned that equipment originally manufactured and transferred under an NRC license may be serviced by a third party who may use inferior replacement parts that were not manufactured in accordance with the licensing requirements of part 32.

The Petitioner's Request

The petitioner suggests that part 32 be amended to clarify that the regulations in question apply to the manufacturers and suppliers of replacement parts as well as to the manufacturers and suppliers of original equipment. In addition to the potential health and safety benefits of this action, the petitioner believes that the number of incidents reported under part 21 might be reduced by specifically applying the requirements of 10 CFR part 32 to the manufacture and distribution of replacement parts.

The petitioner requests that the NRC amend part 32 so that its requirements specifically apply to manufacturers and suppliers of replacement parts or products. The petitioner has suggested two alternatives for accomplishing this objective. The first alternative would be to insert the necessary language into each appropriate section of part 32. The second alternative would be to revise the purpose and scope provisions of § 32.1 so that the requirements of the part would apply to the manufacture and transfer of replacement parts.

The Petitioner's Proposal

The specific amendments suggested by the petitioner are presented below. The NRC has inserted the appropriate amendatory language and structure for these amendments and corrected several minor editorial errors.

The First Suggested Alternative

1. In § 32.1, the introductory text of paragraph (a) is revised to read as follows:

§ 32.1 Purpose and scope.

(a) This part prescribes requirements for the issuance of specific licenses to persons who manufacture or initially transfer items containing byproduct material for sale or distribution, and persons who manufacture or initially transfer replacement parts, devices, products or sources designed for units originally manufactured or initially transferred by others to:

* * * * *

2. In § 32.14, the introductory paragraph is revised to read as follows:

§ 32.14 Certain items containing byproduct material; requirements for license to apply or initially transfer.

An application for a specific license to apply byproduct material to, or to incorporate byproduct material into, the products specified in § 30.15 of this chapter, including replacement parts or products, or to initially transfer for sale or distribution such products containing byproduct material (including replacement parts or products) for use pursuant to § 30.15 of this chapter will be approved if:

* * * * *

3. In § 32.15, paragraphs (a)(1), (c)(1), and (d) are revised to read as follows:

§ 32.15 Same: Quality assurance, prohibition of transfer, and labeling.

(a) * * *

(1) Maintain quality assurance practices in the manufacture of the part of product, or the installation of the part into the product including replacement parts or products:

* * * * *

(c) * * *

(1) Any part or product including a replacement part or product which has been tested and found defective under the criteria and procedures specified in the license issued under § 32.14, unless the defective units have been repaired or reworked and have then met such criteria as may be required as a condition of the license issued under § 32.14; or

* * * * *

(d) Label or mark each unit, except timepieces or hands or dials containing tritium or promethium-147, and its container so that the manufacturer or initial transferor of the product and the byproduct material in the product can be identified. Replacement parts, products and byproduct material must all be labeled or marked.

4. In § 32.16, paragraph (a) is revised to read as follows:

§ 32.16 Certain items containing byproduct material; Records and reports of transfer.

(a) Each person licensed under § 32.14 or § 32.17 including manufacturers of replacement parts or products shall maintain records of transfer of material and report to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy of the appropriate NRC Regional Office listed in appendix D of part 20 of this chapter.

* * * * *

5. In § 32.51, the introductory text of paragraphs (a), (a)(2), and (a)(3), and paragraphs (a)(2)(i) and (a)(2)(ii) are revised to read as follows:

§ 32.51 Byproduct material contained in devices for use under § 31.5; requirements for license to manufacture, or initially transfer.

(a) An application for a specific license to manufacture, or initially transfer devices containing byproduct material, including replacement parts or products, to persons generally licensed under § 31.5 of this chapter or equivalent regulations of an Agreement State will be approved if:

* * * * *

(2) As indicated, the applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device, including replacement devices, to provide reasonable assurance that:

(i) The device or replacement device can be safely operated by persons not having training in radiological protection;

(ii) Under ordinary conditions of handling, storage, and use of the device or replacement device, the byproduct material contained in the device or replacement device will not be released or inadvertently removed from the device or replacement device, and it is unlikely that any person will receive in any period of one calendar quarter a dose in excess of 10 percent of the limits specified in the table in § 20.101(a) of this chapter; and

* * * * *

(3) Each device including replacement devices bears a durable, legible, clearly visible label or labels approved by the Commission which contain in a clearly identified and separate statement:

* * * * *

6. In § 32.74, the introductory text of paragraph (a) and paragraphs (a)(2)(ii), (a)(2)(iv thru viii), (a)(3), and (b)(1) are revised to read as follows:

§ 32.74 Manufacture and distribution of sources or devices containing byproduct material for medical use.

(a) An application for a specific license to manufacture and distribute sources and devices containing byproduct material, including replacement sources, devices, parts and products, to persons licensed pursuant to part 35 of this chapter for use as a calibration or reference source or for the uses listed in §§ 35.400 and 35.500 of this chapter will be approved if:

(2) * * *

(ii) Details of design and construction of the source, device or replacement source or device;

* * * * *

(iv) For devices containing byproduct material, including replacement devices, the radiation profile of a prototype device;

(v) Details of quality control procedures to assure that production sources and devices, including replacement sources and devices, meet the standards of the design and prototype tests;

(vi) Procedures and standards for calibration sources and devices, including replacement sources and devices;

(vii) Legend and methods for labeling sources and devices, including replacement sources and devices, as to their radioactive content:

(viii) Instructions for handling and storing the source or device, including replacement sources and devices, from the radiation safety standpoint; these instructions are to be included on a durable label attached to the source or device, or replacement source and device, or attached to a permanent storage container for the source or device, or replacement source and device: Provided, that instructions which are too lengthy for such label may be summarized on the label and printed in detail on a brochure which is referenced on the label;

(3) The label affixed to the source or device, or replacement source and device; or to the permanent storage container for the source or device, or replacement source and device, contains information on the radionuclide quantity and date of assay, and a statement that the U.S. Nuclear Regulatory Commission has approved distribution of the (name of source or device, or replacement source and device), to persons licensed to use byproduct material identified in §§ 35.58, 35.400, or 35.500, as appropriate, and to persons who hold an equivalent license issued by an Agreement State. However, labels worded in accordance with requirements that were in place on March 30, 1987, may be used until March 30, 1989.

(b)(1) In the event the applicant desires that the source or device, including replacement sources and devices, be required to be tested for leakage of radioactive material at intervals longer than six months, he/she shall include in his application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the source, device or replacement source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source.

* * * * *

7. In § 32.110, paragraph (a) is revised to read as follows:

§ 32.110 Acceptance sampling procedures under certain specific licenses.

(a) A random sample shall be taken from each inspection lot of devices, including replacement devices, licensed under §§ 32.14, 32.53, or 32.61 of this part for which testing is required pursuant to §§ 32.15, 32.55 or 32.62 in accordance with the appropriate Sampling Table in this section determined by the designated Lot Tolerance Percent Defective. If the number of defectives in the sample does not exceed the acceptance number in the appropriate Sampling Table in this section, the lot shall be accepted. If the number of defectives in the sample exceeds the acceptance number in the appropriate Sampling Table in this section, the entire inspection lot shall be rejected.

* * * * *

8. In § 32.210, paragraphs (a), (c) thru (e) and the introductory text of paragraph (f) are revised to read as follows:

§ 32.210 Registration of product information.

(a) Any manufacturer or initial distributor of a sealed source or device, including replacement sources and devices, containing a sealed source whose product is intended for use under a specific license may submit a request to NRC for evaluation of radiation safety information about its product and for its registration.

* * * * *

(c) The request for review of a sealed source or device, including replacement sources and devices, must include sufficient information about the design, manufacture, prototype testing, quality control program, labeling, proposed uses and leak testing and, for a device or replacement device, the request must also include sufficient information about installation, service and maintenance, operating and safety instructions, and its potential hazards to provide reasonable assurance that the radiation safety properties of the source or device or replacement source or device are adequate to protect health and minimize danger to life and property.

(d) The NRC normally evaluates a sealed source or a device, including replacement sources and devices, using radiation safety criteria in accepted industry standards. If these standards and criteria do not readily apply to a particular case, the NRC formulates reasonable standards and criteria with the help of the manufacturer or distributor. The NRC shall use criteria and standards sufficient to ensure that the radiation safety properties of the device or sealed source, including replacement sources and devices, are adequate to protect health and minimize danger to life and property.

(e) After completion of the evaluation, the Commission issues a certificate of registration to the person making the request. The certificate or registration acknowledges the availability of the submitted information for inclusion in an application for a specific license proposing use of the product or replacement product.

(f) The person submitting the request for evaluation and registration of safety information about the product shall manufacture and distribute the product or replacement product in accordance with—

* * * * *

The Second Suggested Alternative

1. In § 32.1, the introductory text of paragraph (a) is revised to read as follows:

§ 32.1 Purpose and scope.

(a) This part prescribes requirements for the issuance of specific licenses to persons who manufacture or initially transfer items containing byproduct material for sale or distribution (including those persons who manufacture replacement parts, devices, or sources designated for units originally manufactured or initially transferred by others) to:

* * * * *

Dated at Rockville, Maryland, this 4th day of October 1991.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 91-24469 Filed 10-9-91; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[Fi-88-86]

RIN 1545-AJ35

Real Estate Mortgage Investment Conduits; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to a notice of proposed rulemaking relating to real estate mortgage investment conduits, or REMICs.

FOR FURTHER INFORMATION CONTACT: Carol A. Schwartz or Tom Lyden at 202-566-3297 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulation which is the subject of this correction reflects the changes made by the Tax Reform Act of 1986 and by the Technical and Miscellaneous Revenue Act of 1988.

Need for Correction

As published, the proposed regulation contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the proposed regulation published September 30, 1991 (56 FR 49526) FR Doc. 91-22853, is corrected as follows:

On page 49535, in the second column, in § 1.860A-1, the second sentence of paragraph (b)(2)(ii) is corrected and a third sentence added to read as follows:

§ 1.860A-1 Effective dates and transition rules.

* * * * *

(b) * * *

(2) * * *

(ii) * * * The significant value requirement in § 1.860E-1(a)(3) does not apply, however, to residual interests acquired by an organization to which section 593 applies as a sponsor at formation of a Remic (determined by reference to issue price) and sold to unrelated investors before November 12, 1991. The exception from the significant value requirement provided by the preceding sentence applies only so long as the sponsor owns the residual interests.

* * * * *

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate)

[FR Doc. 91-24334 Filed 10-9-91; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 845

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Civil Penalties; Denial of Petition

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of decision on petition for rulemaking.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is making available to the public its final decision on a petition for rulemaking from the State of Maryland, Department of Natural Resources. The petitioner requested that OSM amend its regulations governing assessment conferences at 30 CFR 845.18 to clarify the appeal procedures for proposed mandatory civil penalty assessments and to provide guidance to a conference officer regarding the particular relevant information which may be considered in the compromise of all proposed civil penalty assessments. The petitioner maintained that the existing regulations at 30 CFR 845.18 are ambiguous and do

not provide adequate guidance to a conference officer for review of proposed civil penalty assessments.

DATES: On September 30, 1991, the Director made a decision to deny the petition.

ADDRESSES: Copies of the petition and other relevant materials comprising the Administrative Record of this petition are available for public review and copying at the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Administrative Record, room 5131, 1100 L Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Daniel Stocker, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240. Telephone: (202) 208–2550 (Commercial) or 268–2550 (FTS).

SUPPLEMENTARY INFORMATION:

I. Petition for Rulemaking Process

Pursuant to section 201(g) of the Surface Mining Control and Reclamation Act of 1977 (the Act), any person may petition the Director of OSM for a change in OSM's regulations. Under the applicable regulations for rulemaking petitions, 30 CFR 700.12, if the Director determines that the petition has a reasonable basis, the Director shall publish a notice in the **Federal Register** seeking comments on the petition, and may hold a public hearing, conduct an investigation, or take other action to determine whether the petition should be granted. If the petition is granted, the Director initiates a rulemaking proceeding. If the petition is denied, the Director notifies the petitioner in writing setting forth the reasons for denial. Under 30 CFR 700.12(d), the Director's decision constitutes the final decision of the Department of the Interior.

II. Petition Submitted by the State of Maryland, Department of Natural Resources on January 24, 1991

OSM received a letter dated January 24, 1991, transmitting a petition for rulemaking on behalf of the State of Maryland, Department of Natural Resources, to amend OSM's existing regulations at 30 CFR 845.18 governing assessment conferences and the appeal process for mandatory civil penalty assessments.

On March 15, 1991, OSM published a notice in the **Federal Register** (56 FR 11130) requesting comments on the petition until April 15, 1991. OSM received two sets of comments during the public comment period.

For the reasons discussed in the appendix to this notice, the Director is denying the petition. Therefore, no rulemaking will occur on this issue.

The Director's letter to the petitioner on this rulemaking petition appears as an appendix to this notice. This letter reports the Director's decision to the petitioner. It also contains a summary description of the issues raised by the petitioner, a discussion of the applicable statutory provisions and regulatory background, an analysis and response to the petitioner's reasons why the petition should be granted, and a summary of the comments on the petition.

Dated: September 30, 1991.

Harry M. Snyder,

Director.

Appendix

September 30, 1991.

Mr. Anthony F. Abar,

Director, Maryland Department of Natural Resources, Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532.

Dear Mr. Abar: This letter is in response to the January 24, 1991, petition for rulemaking submitted to the Office of Surface Mining Reclamation and Enforcement (OSM) on behalf of the State of Maryland, Department of Natural Resources (the petitioner). The petition requests that OSM amend its regulations governing assessment conferences at 30 CFR 845.18 to both clarify the appeal process for proposed mandatory civil penalty assessments and to provide guidance to conference officers regarding the particular relevant information which may be considered in the compromise of proposed civil penalty assessments.

On March 15, 1991, OSM published a notice in the **Federal Register** (56 FR 11130) requesting public comments on the petition. During the public comment period which ended on April 15, 1991, OSM received comments from the Joint National Coal Association/American Mining Congress Committee on Surface Mining Regulations and the Interstate Mining Compact.

After careful consideration of the positions and arguments presented in the petition and public comments, I have decided to deny the petitioner's rulemaking requests. OSM's existing regulations already specify the appeal procedures for proposed mandatory civil penalty assessments and provide adequate guidance to the conference officer as to the particular relevant information which may be considered in the compromise of proposed civil penalty assessments. Therefore, no rulemaking proceeding will be initiated on these subjects. The reasons for my decision are more fully discussed in the enclosed analysis. As provided in 30 CFR 700.12(d), my decision constitutes the final decision for the Department of the Interior.

Sincerely,

Harry M. Snyder,

Director.

State of Maryland Department of Natural Resources Petition for Rulemaking Decision Analysis

Background on Petition

On January 24, 1991, the State of Maryland, Department of Natural Resources petitioned the Director of the Office of Surface Mining Reclamation and Enforcement (OSM) to amend OSM's regulations governing assessment conferences at 30 CFR 845.18 to clarify the review procedures for proposed mandatory civil penalty assessments and provide guidance to a conference officer regarding the particular relevant information which may be considered in the compromise of proposed civil penalty assessments.

Section 201(g) of the Surface Mining Control and Reclamation Act of 1977 (the Act) and 30 CFR 700.12 provide that any person may petition the Director to initiate a proceeding for the issuance, amendment, or repeal of a rule promulgated under the Act. These regulations require the petition to set forth the facts, technical justification, and law which require the issuance, amendment, or repeal of a regulation. 30 CFR 700.12(b). Based on this information, the Director shall determine if the petition provides a reasonable basis for the proposed action. Facts, technical justification, or law previously considered in a petition or rulemaking on the same issue shall not provide a reasonable basis. The Director may hold a public hearing or conduct other investigations or proceedings in order to determine whether the petition should be granted. 30 CFR 700.12(c). If the petition is granted, the Director is required to commence a rulemaking proceeding. 30 CFR 700.12(d)(1). If the petition is denied, the Director is required to notify the petitioner in writing of the reasons for denial. 30 CFR 700.12(d)(2).

On March 15, 1991, OSM published a notice in the **Federal Register** requesting comments on the petition. In the notice, OSM announced that it would not hold a public hearing but would accept written comments on the petition during the comment period which would end on April 15, 1991. It stated that, by appointment, OSM employees would be available to meet with the public during business hours (9 a.m. to 5 p.m. Eastern standard time) during the comment period. The notice also stated that all comments and supporting documents would be entered into the

Administrative Record on the petition (56 FR 11130).

OSM received comments from the Joint National Coal Association/ American Mining Congress Committee on Surface Mining Regulations and the Interstate Mining Compact. These comments have been made part of the Administrative Record.

Substance of the Petition

The petitioner requests that OSM review the assessment conference provisions of 30 CFR 845.18 and propose amendments to (1) clarify the review procedures for the various proposed civil penalty assessments authorized and mandated in section 518 of the Act and 30 CFR 845.12 and 845.15(b); and (2) specify, within an assessment conference context, what information is relevant, what criteria are to be considered for compromising the assessment of any proposed civil penalty, and which party, if any, to a review, may compromise the amount of the civil penalty for each mandatory civil penalty assessment. The petitioner asserts that existing regulations are ambiguous and do not provide adequate guidance to a conference officer in the review of such assessments.

Applicable Statutory Provisions

Section 201(c)(2) of the Act sets forth the OSM's general rulemaking authority. OSM's statutory obligations with respect to assessment of civil penalties are set forth in section 518 of the Act. Under section 518(a), OSM may assess a civil penalty against any person who violates any permit condition or any other provision of title V of the Act except that if such violation leads to issuance of a cessation order under section 521, the Act provides that the civil penalty shall be assessed. Such penalty shall not exceed $5,000 per violation. Each day of a continuing violation may be deemed a separate violation for purpose of assessments. Section 518(a) also provides that in determining the amount of the civil penalty, the permittee's history of previous violations at the particular surface coal mining operation; the seriousness of the violation including any irreparable harm to the environment and any hazard to the health and safety of the public; whether the permittee was negligent; and the demonstrated good faith of the permittee changed in attempting to achieve rapid compliance after notification of the violation shall be considered.

Section 518(h) provides that if a violation is not abated within the period set in a notice of violation (NOV), cessation order (CO), or other order, the operator shall be assessed a minimum penalty of $750 for each day during which the violation remains unabated.

Current OSM Regulatory Program

In 1979, OSM promulgated permanent program regulations governing the assessment of civil penalties which prescribe the use of a mandatory point system in determining the amount of the penalty. (44 FR 15305, March 13.) 30 CFR 845.12(a) requires that a civil penalty shall be assessed for each CO. 30 CFR 845.12(b) requires that a civil penalty shall be assessed for each NOV if the violation is assigned 31 points or more under the point system described in 30 CFR 845.13. 30 CFR 845.12(c) provides that OSM may assess a penalty for each NOV assigned 31 points or less under the point system described in 30 CFR 845.13. 30 CFR 845.13 describes the point system which is used both to make the determination of whether to assess a civil penalty and to set the amount of such penalty.

30 CFR 845.15(a) states that a civil penalty may be assessed separately for each day from the date of issuance of the NOV or CO to the date set for abatement of the violation. 30 CFR 845.15(b) provides that in addition to the civil penalty provided in paragraph (a), whenever an operator fails to correct a violation within the period permitted for its correction, the operator shall be assessed a civil penalty of not less than $750 per day for each day the violation continues, not to exceed 30 days for each such violation.

30 CFR 845.18 sets forth procedures for assessment conferences. These procedures, in pertinent part, provide that the conference officer shall review the proposed civil penalty assessment upon written request of the person to whom the notice or order was issued. The assessment conference is not governed by the requirements of formal adjudicatory hearings. Pursuant to subsection (b)(3) of 30 CFR 845.18, the conference officer shall consider all relevant information and shall either settle the issues and execute a settlement agreement or affirm, raise, lower, or vacate the proposed assessment.

Petitioner's Statement of Facts and Law in Support of the Requested Rulemaking

The petitioner proposes that OSM amend the regulations governing assessment conferences at 30 CFR 845.18 to clarify the procedures for appealing mandatory civil penalty assessments and provide guidance to a conference officer regarding the particular relevant information which may be considered in the review and compromise of such assessments.

The petitioner defines " 'mandatory' as every violation for which the Surface Mining Control and Reclamation Act of 1977 (SMCRA) (section 518) and/or 30 CFR part 845 requires that a civil penalty shall be assessed * * *" Under this definition, mandatory civil penalty assessments would be assessed for 30 CFR 845.12(a) CO's, 30 CFR 845.12(b) 31 point or more NOV's, and 30 CFR 845.15(b) failure-to-abate cessation orders (FTACO's). The petitioner states that neither the Act nor its implementing regulations distinguishing between procedures to review NOV, CO, and FTACO civil penalty assessments. Therefore, the petitioner presumes that the assessment conference review procedures of 30 CFR 845.18 apply to all proposed mandatory civil penalty assessments as such assessments are defined above.

The petitioner further notes that 30 CFR 845.18(b)(3) allows the conference officer, after consideration of all relevant information, to either settle the issues and execute a settlement agreement or affirm, raise, lower, or vacate the proposed civil penalty assessment. The petitioner contends, however, that "no other guidance is provided that indicates the relevant information/criteria to be considered during the conference for the different types of civil penalty assessments, the amount of civil penalty compromise, or whether mandatory penalties can, in fact, be compromised or vacated."

Specifically with regard to the compromise of the mandatory $750 per day FTACO civil penalty required by 30 CFR 845.15(b), the petitioner notes OSM's letter of June 27, 1990, to Anthony Abar, Director, Maryland Bureau of Mines, which stated that:

> In reviewing the rulemaking history of the Federal civil penalty regulations, Federal case law decisions, and administrative law decisions * * * it is clear that civil penalties for failure-to-abate cessation orders carry a mandatory minimum daily penalty amount of $750 per day * * * Under SMCRA and the Federal regulations, a conference officer or hearing examiner cannot waive or reduce the mandatory failure-to-abate civil penalties. The only variable that enters into the * * * computation of the penalty amount owed is the determination of the actual number of days for which the penalty is to be assessed.

The petitioner asserts, however, that the rulemaking history of the Federal civil penalty regulations indicates that OSM's interpretation of the FTACO provisions of the ACT allowed for a compromise of these civil penalties. In support of this position, the petitioner

quotes from the 1979 permanent program preamble discussion for 30 CFR 845.15(c) which stated:

> A new subsection (c) was added to clarify the manner in which both the mandatory $750/day penalty for failure to abate and the discretionary penalty for continuing violations will be assessed, and to provide for reassessment to take account of good faith compliance or other facts not available at the time initial assessment was made. As in the case of good faith points, the mandatory $750/day penalty and the discretionary penalty for continuing violations cannot properly be finally assessed until after the violation is abated. The new subsection (c) provides for authority for reassessment.

44 FR 15308, March 13.

The petitioner concludes with a statement that OSM should amend its regulations to reflect Federal case law decisions and administrative law decisions.

Analysis of Petitioner's Proposals

1. *Proposal:* Petitioner proposes that OSM amend its regulations governing assessment conferences at 30 CFR 845.18 to clarify the review procedures for the various proposed civil penalty assessments authorized and mandated by section 518 of the Act and 30 CFR 845.12 and 845.15(b).

Response: 30 CFR 845.18(a) provides that OSM shall arrange a conference to review the proposed assessment or reassessment of a civil penalty upon written request for the person to whom the NOV or CO was issued. Therefore the conference review procedures of 30 CFR 845.18 apply, as the petitioner presumes, to all proposed civil penalty assessments, including those identified by the petitioner as being authorized and mandated by section 518 and 30 CFR 845.12 and 845.15(b). Neither the language of the current or prior 30 CFR part 845 rules nor their preambles suggest otherwise. Although beyond the scope of the petitioner's proposal, it should be noted that the person to whom the NOV or CO was issued may also seek a more formal review of the proposed civil penalty assessment through the Office of Hearings and Appeals review process detailed at 30 CFR 845.19 and 43 CFR 4.1150 *et seq.*

2. *Proposal:* Petitioner proposes that OSM further amend its regulations at 30 CFR 845.18 to specify what information is relevant, what criteria are to be considered for compromising the assessment of any proposed civil penalty, and which party, if any, to an appeal, may compromise the amount of the civil penalty for each proposed mandatory civil penalty assessment.

Response: 30 CFR 845.18(b)(3) provides that the conference officer shall consider all relevant information on the violation and, within 30 days of the conference, either settle the issues or affirm, lower, or vacate the penalty. The preambles to the initial and permanent program rules do not define such information. Historically, the relevant information which the conference officer considers in compromising proposed NOV and section 521 CO civil penalty assessments is the same information which section 518(a) of the Act and its implementing regulations at 30 CFR 845.13 require to be considered in determining the amount of the proposed penalties and, in the case of notices of violation, whether mandatory civil penalties should be assessed.

The 30 CFR 845.13 point system for penalties provides a reasonable degree of informational specificity without eliminating the flexibility needed to arrive at an appropriate civil penalty amount. This point system has been an integral part of OSM's regulations since 1977 and is similar to the system used for years by the Mine Safety and Health Administration. So far as can be determined, the system has worked well. If the State of Maryland finds fault with the system's informational elements because of perceived lack of necessary specificity, the State may establish rules providing such specificity as long as those rules are no less effective than the Secretary's regulations. In addition, the State rules must contain the same or similar procedural requirements as those set forth in section 518 of the Act. 30 CFR 840.13(c).

The only relevant information which the conference officer considers in compromising proposed section 518(h) $750 per day FTACO civil penalty assessments is the actual number of days during which such failures-to-abate continue. This latter position is consistent with that previously expressed in OSM's letter of June 27, 1990, to Anthony Abar, Director, Maryland Bureau of Mines, quoted in part by this petition.

In opposition, the petitioner quotes the 1979 preamble discussion for 30 CFR 845.15(c) apparently for the proposition that OSM may consider factors other than the actual number of days the failure-to-abate continues in any compromise of section 518(h) $750 per day FTACO civil penalty assessments. While the quoted preamble discussion does suggest that other factors may be considered, it holds no precedential value. The regulatory language referred to as subsection (c) in the preamble was neither included in the proposed rule nor adopted by the final rule. 43 FR 41933, September 18, 1978; and 44 FR 15462, March 13, 1979. OSM regrets any misunderstanding or confusion occasioned by the editing error of including a reference to the subsection (c) language in the preamble discussion in the 1979 final rule FR notice. Final 30 CFR 845.15 was not, however, promulgated with a subsection (c).

The request that OSM amend its regulations to reflect Federal case law and administrative law decisions is unsupported in the petition by specific citations. In fact, the Federal decisions interpreting the FTACO provisions of section 518(h) have consistently upheld OSM's implementing regulations. As the following digest of decisions indicates, when a violation or CO has not been abated within the prescribed abatement period, an assessment of $750 for each day of non-abatement (up to a limit of 30 days) is mandatory and cannot be reduced by considering mitigating factors including those which might otherwise be considered in the compromise of section 518(a) NOV and CO assessments. These decisions make it clear that OSM does not have discretion to amend or reinterpret its regulations to allow consideration of factors other than the actual number of days a failure-to-abate continues in the compromise of a section 518(h) $750-a-day FTACO civil penalty assessment.

In *Save Our Cumberland Mountains, Inc. (SOCM)* v. *Watt*, 550 F. Supp. 979 (D.D.C. 1982), *reversed because of improper venue*, 724 F.2d 1434 (DC Cir. 1984), the court held that the existence of administrative review procedures does not support a finding that the Secretary has prosecutorial discretion not to assess a penalty of not less than $750 per day under section 518(h) of the Act.

The Interior Board of Land Appeals (the Board) in *Peabody Coal Co.* v. *OSM*, 90 IBLA 186, 194 (1986), *citing SOCM* v. *Watt, supra*, found no authority in the mandatory requirements of section 518(h) and its implementing regulations for a consideration of mitigating factors such as inability to comply or good faith efforts of the permittee to comply in assessing the statutory minimum penalty for an FTACO. *See also L.W. Overly Coal Co.* v. *OSM*, 103 IBLA 356 (1988), *citing Peabody* v. *OSM, supra;* and *Grays Knob Coal Co.* v. *OSM*, 98 IBLA 171 (1987), *citing Peabody* v. *OSM, supra*. In an earlier decision, *Apex Co., Inc.*, 4 IBSMA 19 (1982), the Board stated that under 30 CFR 723.15(b) [the initial program counterpart to 30 CFR 845.15(b)], OSM is required to assess a civil penalty of not less than $750 per

day for each day during which a CO properly remains outstanding, up to a limit of 30 days.

The petitioner also requests that OSM specify what party, if any, to an appeal may compromise the amount of the proposed mandatory civil penalty assessment. This latter request is unsupported by further discussion in the accompanying justification. Current regulations are clear on the issue of who may compromise proposed civil penalty assessments. While 30 CFR 845.18(b)(2) provides that any person shall have the right to attend and participate in the assessment conference, 30 CFR 845.18(b)(3) provides that it is the conference officer's responsibility to settle the issues on behalf of OSM and the person assessed, and make the final decision whether to affirm, raise, lower, or vacate the proposed penalty.

Public Comment

OSM received two sets of comments on this petition for rulemaking from the Joint National Coal Association/ American Mining Congress Committee on Surface Mining Regulations and the Interstate Mining Compact supporting the petition.

The Joint National Coal Association/ American Mining Congress Committee on Surface Mining Regulations (the Committee) stated that it supported the arguments in the petition. The Committee acknowledged that section 518(h) of the Act requires assessment of a daily civil penalty in the amount of $750 in the event that the person charged in an NOV fails to correct the violation within the time set abatement. The Committee noted, however, that section 518 is silent on the issue of whether a regulatory authority or a reviewing court may reduce the amount of the mandatory civil penalty. In light of this silence and in support of its position that such bodies can compromise the amount of the $750 per day assessment, the Committee offered the following arguments.

First, the Committee stated that because OSM had previously promulgated 30 CFR 845.15(b)(2) to limit to 30 days the period for which the $750 per day penalty could be assessed (even though section 518(h) of the Act contains no such limitation), OSM recognized that the duties imposed under section 518(h) are not absolute but require some flexibility and discretion in its implementation. OSM does not agree with this conclusion. The preamble to the final rules conforming the interim to the permanent program civil penalty rules details the statutory basis for the 30-day limit to the assessment of section 518(h) $750 per day civil penalties. (45 FR 58780, September 4, 1980.) As discussed above, Federal judicial and administrative decisions have consistently held such assessments to be mandatory and not to be reduced below their statutory prescription of $750 per day.

Second, the Committee stated that the language of section 518(h) of the Act clearly infers that OSM will take individual circumstances into account by allowing the regulatory authority to determine whether the operator will suffer "irreparable loss or damage" as a result of complying with the CO. The commenter has focussed on a different statutory requirement. The portion of section 518(h) which allows for a suspension of the abatement requirements of a CO after determining that the operator will suffer irreparable loss or damage from the application of those requirements is distinct from, and has no bearing upon the portion of section 518(h) which states that operators shall be assessed a civil penalty of not less than $750 for each day during which a violation continues (unabated). In *Peabody Coal Co.* v. *OSM*, 90 IBLA at 193, the Board rejected a similar personal circumstances-type argument when it found no authority in the mandatory requirement of section 518(h) and its implementing regulations for a consideration of mitigating factors such as inability to comply or good faith efforts to comply in assessing the statutory minimum penalty for a FTACO.

Third, the Committee stated that there is no reason why OSM cannot allow the compromise of section 518(h) civil penalty assessments on the basis of specific relevant factors in light of the fact that OSM compromises claims on a daily basis through its enforcement process. OSM does not agree with this conclusion. The fact that OSM may decide to compromise a claim on the basis of its likelihood of collection has no bearing on the amount of civil penalty originally assessed for failure to abate a violation within the prescribed period. In *SOCM* v. *Watt*, 550 F. Supp. at 982, the court considered and rejected a similar argument. In that case, the Secretary argued that the fact that he has prosecutorial discretion suggests that he must also have discretion in the assessment of penalties for section 518(h) failure-to-abate cessation orders. The court found that position "lacked merit" and stated the Secretary cannot convert a mandatory duty into a discretionary one. Concerns over cost of enforcement or likelihood of success were held not to warrant a failure to comply with the explicit requirements of the statute.

The Interstate Mining Compact commented that it supports the petition but did not offer any specific rationale as to why OSM should accept it.

Final Decision

Based on the foregoing analysis and comments, I have decided to deny the petitioner's rulemaking request. OSM's existing regulations already specify the appeal procedures for proposed mandatory civil penalty assessments and prove adequate guidance to the conference officer as to the particular relevant information which may be considered in the compromise of all proposed civil penalty assessments.

As provided in 30 CFR 700.12(d), this decision constitutes the final decision for the Department of the Interior.

[FR Doc. 91–24276 Filed 10–9–91; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 904

Arkansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Arkansas permanent regulatory program (hereinafter, the "Arkansas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to Arkansas' regulations concerning the covering of coal and acid- and toxic-forming materials by backfilling and grading operations. The amendment is intended to revise the State regulations to be consistent with, but be no more restrictive than, the corresponding Federal regulations.

This notice sets forth the times and locations that the Arkansas program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., c.s.t. November 12, 1991. If requested, a public hearing on the proposed amendment will be held on November 4, 1991. Requests to present oral testimony at the hearing must be

received by 4 p.m., c.d.t. on October 25, 1991.

ADDRESSES: Written comments should be mailed or hand delivered to James H. Moncrief at the address listed below.

Copies of the Arkansas program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

James H. Moncrief, Director,
Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, suite 550, Tulsa, OK 74135, Telephone: (918) 581–6430.

Arkansas Department of Pollution Control and Ecology, Surface Mining and Reclamation Division, 8001 National Drive, Little Rock, AR 72219, Telephone: (501) 562–7444.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Arkansas Program

On November 21, 1980, the Secretary of the Interior conditionally approved the Arkansas program. General background information on the Arkansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Arkansas program can be found in the November 21, 1980 **Federal Register** (45 FR 77003). Subsequent actions concerning Arkansas program and program amendments can be found at 30 CFR 904.12 and 904.15.

II. Proposed Amendment

By letter dated September 25, 1991 (administrative record No. AR–463), Arkansas submitted a proposed amendment to its program pursuant to SMCRA. Arkansas submitted the proposed amendment at its own initiative. The amendment is intended to revise the State regulations to be consistent with the corresponding Federal standards but to be no more restrictive than the corresponding Federal regulations, as required by section 5(b)(1) of the Arkansas Surface Coal Mining and Reclamation Act of 1979. The regulation that Arkansas proposes to amend is Arkansas Surface Coal Mining and Reclamation Code 816.103, concerning the covering of coal and acid- and toxic-forming materials by backfilling and grading operations.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Arkansas program.

Written Comments

Written comments should be specified, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4 p.m., c.d.t. on October 25, 1991. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be made a part of the administrative record.

List of Subjects in 30 CFR Part 904

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 2, 1991.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 91–24364 Filed 10–9–91; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 36

RIN 0905–AD21

Review of the Determination of a Tribe's Resource Deficiency Level

AGENCY: Indian Health Service, Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Indian Health Service (IHS) is proposing to establish procedures by which an Indian tribe may petition the Secretary for a review of the determination of the health resources deficiency level of such tribe. This proposed rule is issued under authority of section 201(c)(4) of the Indian Health Care Improvement Act (IHCIA) (Pub.L. 94–437) as amended by the Indian Health Care Amendments of 1988 (Pub.L. 100–713).

DATES: Comments must be received on or before December 9, 1991.

ADDRESSES: Richard J. McCloskey, Indian Health Service, room 8A–23, 5600 Fishers Lane, Rockville, MD 20857. Comments will be made available for public inspection at this address from 8:30 a.m. to 5 p.m., Monday—Friday, beginning approximately 2 weeks after publication of this notice.

FOR FURTHER INFORMATION CONTACT: Eugene W. Lewis, Acting Director, Division of Health Services Planning and Operations Research, Office of Planning, Evaluation and Legislation, Indian Health Service, 5600 Fishers Lane, room 6–46, Rockville, MD 20857, telephone 301–443–4725. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Indian Health Care Improvement Fund (IHCIF), was established by section 201 of the Indian Health Care Improvement Act, as amended, to lower the health resource deficiency levels of tribes in greatest need. Tribes are grouped into

one of five health resource deficiency levels. Eligibility to receive monies from the IHCIF is based on a tribe's level of health resources deficiency. Section 201 defines the term "health resources deficiency" to mean a percentage that is derived by first subtracting the value of the health resources available to the tribe from the value of the health recourses an Indian tribe needs and then dividing that difference by the value of the health resources that the Indian tribe needs. Health resources deficiency levels are derived through application of the IHS Health Services Priority System (HSPS).

Section 201(c)(4) of the IHCIA requires that procedures be established by regulation to allow tribes the opportunity to request a review of their health resource deficiency levels. We are proposing procedures requiring written requests for review by appropriate tribal officials to the IHA Area Director. Such a request may be made after the IHS notifies the tribe of the health resource deficiency level for a particular fiscal year. Following a tribal request for review, the Area Director shall, within 10 days, meet with and provide tribal officials with the written records used to determine the tribe's health resource deficiency level, including the tribe's data used in the HSPS for the year under review.

We propose that the Area Director be required to meet with the tribe to seek an informal resolution at the Area level. The Area Director will, within 15 days of receipt of the tribe's request, forward his report to the Director, IHS, and the tribe, summarizing the results of the meeting and Area Office recommendations. The tribe will be afforded 10 days from receipt of the Area Director's report to submit written comments to the Director, IHS, regarding the Area Office recommendations and to submit additional supporting information. The IHS Director, or his/her designee, will make a final decision within 30 days of receipt of the Area Director's report. The IHS Director's decision shall constitute final administrative action.

The Director, IHS, must make a decision on all tribal requests for reviews before the total IHCIF allocations can be finalized.

We are proposing that tribes can requests reviews based on either a failure to follow protocols or invalid data or both. The data elements subject to review will include the numerical values used in determining the deficiency level as well as the following: Estimates of population eligible to be served by IHS, estimates of health status, estimates of health services, and estimates of available resources.

Executive Order 12291 and Regulatory Flexibility Act

This rule does not have cost implications for the economy of $100 million or more independent of the IHS appropriation, nor will it result in a major increase in cost for consumers, industries, or Government agencies, nor will it adversely affect competition. Therefore, the Secretary has determined that the rule is not a major rule under Executive Order 12291, and a regulation impact analysis is not required. Further, these regulations will not have a significant economic impact on a substantial number of small entities, and therefore do not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

Paperwork Reduction Act

This proposed rule does not contain reporting or recordkeeping requirements subject to prior approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 .

List of Subjects in 42 CFR Part 36

Alaska natives, American Indians, Health, Health care, Health care needs, Health care resources, Health facilities, Health insurance, Health planning, Health statistics, Health status.

Dated: August 7, 1991.

James O. Mason,

Assistant Secretary for Health.

Approved: September 18, 1991.

Louis W. Sullivan,

Secretary.

PART 36—[AMENDED]

42 CFR part 36 is amended as follows:

1. The authority citation for part 36 is revised to read as follows:

Authority: Pub. L. 67–85, 42 Stat. 208 (25 U.S.C. 13); Sec. 1, Pub. L. 83–568, 68 Stat. 674 (42 U.S.C. 2001); Sec. 3, Pub. L. 83–568, 68 Stat. 674 (42 U.S.C. 2003); unless otherwise noted.

2. The authority citation for subpart J, part 36, is revised to read as follows:

Authority: Secs. 102, 103, 106, 502, 702, and 704 of Pub. L. 94–437 (25 U.S.C. 1612, 1613, 1615, 1652, 1672 and 1674); sec. 338G of the Public Health Service Act, 95 Stat. 908 (42 U.S.C. 254r); sec. 201, Pub. L. 100–713, 102 Stat. 4800 (25 U.S.C. 1621).

3. Subpart J is amended to add a new subdivision J–9 to read as follows

Subdivision J–9—Review of the Determination of a Tribe's Resource Deficiency Level

Sec.

Subdivision J–9—Review of the Determination of a Tribe's Resource Deficiency Level

§ 36.380 Purpose.

(a) The purpose of the Indian Health Care Improvement Fund (IHCIF) established by section 201 of the Indian Health Care Improvement Act, as amended, is to provide a separate pool of funds to be allocated to tribes to lower and health resource deficiency levels of tribes in greatest need. Tribes are ranked according to their level of health resource deficiency and are eligible to receive monies from the IHCIF based on this ranking. Section 201 defines the term "health resources deficiency" to mean a percentage that is derived by first subtracting the value of the health resources available to the tribe from the value of the health resources an Indian tribe needs and then dividing that difference by the value of the health resources that the Indian tribe needs.

(b) Tribes or tribal organizations may request review of a determination of the tribes' health resources deficiency level by submitting a written request to the Director of the appropriate Indian Health Service (IHS) Area Office.

§ 36.381 Definitions.

(a) *Service Unit* means: (1) An administrative entity within the Indian Health Service, or (2) A tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act through which services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

(b) *Health resources deficiency* means a percentage determined by dividing—(1) The excess, if any, of—(i) The value of the health resources that the Indian tribe needs, over (ii) The value of the health resources available to the Indian tribe, by (2) The value of the health resources that the Indian tribe needs.

§ 36.382 Written request.

A request for review shall be in writing and shall set forth the grounds supporting a review as provided in § 36.385. Such request must be submitted to the Area Director no later than 30 days following notification of the proposed Health Resource Deficiency Level in any fiscal year in which the Health Services Priority System (HSPS) is determined.

§ 36.383 Review by Area Director.

Within 10 days of the tribe's request, the Area Director shall meet with the tribe or tribal organization and afford it the opportunity to review the written record (the HSPS methodology as used by IHS Headquarters, Office of Planning, Evaluation and Legislation, Division of Health Services Planning and Operations Research) which was used to determine the tribe's respective health resource deficiency level as well as the input data originating from the Area level. The purpose of the meeting will be to attempt to resolve issues expeditiously and informally and without the need for additional review.

§ 36.384 Review by Director.

(a) The Area Director will, within 15 days of receipt of the tribe's request, prepare and submit a report to the Director, IHS, and the tribe, summarizing the results of the meeting and Area Office recommendations. The tribe will be afforded 10 days from receipt of the Area Director's report to submit written comments to the Director, IHS, regarding the Area Office recommendations and to submit any additional supporting information not previously submitted to the Director of IHS for a final review. The Director, IHS, or his/her designee, will review the tribe's request, the Area Director's report and recommendation and any additional arguments or evidence submitted by the tribe, and make a final decision within 30 days of receipt of the Area Director's report. The decision of the Director, IHS, shall be in writing and shall constitute final administrative action.

(b) The Director, IHS, shall, to the extent practicable, make a decision on all requests for reviews before the IHCIF allocation are finalized.

§ 36.385 Review criteria.

The following are the criteria applicable to a review of a tribe's health resource deficiency level.

(a) *Criterion 1:* Invalid data were used in a way that significantly affects the end result.

The tribe must demonstrate that data used in determining the resource deficiency level or subsequent events or unanticipated circumstances render the use of such data invalid for purposes of the HSPS. Alternative data or estimates must comply with IHS data definitions, must have been developed using sound scientific principles and practice, and must have been available at the time the review was requested or be able to be developed during the review process; and/or

(b) *Criterion 2:* Failure to Follow Protocols.

The tribe must demonstrate that data was valid but it was applied unevenly and unfairly to the tribe in a way that significantly affects the end result.

§ 36.386 Elements subject to review.

The following are examples of the types of data elements used in determining the deficiency level. To the extent that other data elements are in fact used to determine the deficiency level, they are also subject to the review provided by this subdivision.

(a) *Estimates of Population.* The estimates of population include numbers of American Indians and Alaska Natives eligible to receive health services from IHS, directly or from contract care providers, for the respective service unit, or Indian tribe; number of Indians currently using the Service resources made available to each service unit or Indian tribe.

(b) *Estimates of Health Status.* The health status indicator includes the Years of Productive Life Lost (YPLL) rate, or other appropriate health status indicators, as a proxy measure of health status either determined at the service unit, Area, or national levels.

(c) *Estimates of Health Services.* The estimates of health services are based on the composite clinical work unit (CWU) which measures the total number of clinical services provided to the user.

(d) *Estimates of Available Resources.* The health resources available to a tribe or operating unit include health resources provided by the IHS as well as health resources used by the tribe or operating unit, including services and financing systems provided by any Federal program, private insurance, and programs of State and local governments.

[FR Doc. 91-24189 Filed 10-9-91; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

[Docket No. 911047-1247]

RIN 0648-AD20

American Lobster Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement Amendment 4 to the Fishery Management Plan for the American Lobster Fishery (FMP). This rule would: (1) Reduce the minimum carapace size for American lobster to 3¼ inches (8.26 cm); (2) delay further increases in the minimum size until 2 years after the implementation of this amendment; and (3) modify the minimum dimensions of the escape vent to be consistent with the minimum carapace size. Amendment 4 is intended to restore uniformity among the Federal and state size limits.

The intention of the New England Fishery Management Council (Council) is to develop and submit a comprehensive amendment to the FMP during the 2-year period. If the comprehensive amendment is approved and implemented, it may replace the scheduled minimum size increases, and will provide management of the American lobster resource throughout its range and reduce the risk of overfishing. Nonsubmission of a comprehensive amendment within this period, or disapproval of the amendment, would trigger resumption of the remaining minimum carapace length increases approved under Amendment 3. In accordance with Amendment 3, the minimum dimensions of the escape vent would also increase to be consistent with a 3$^{5}/_{16}$ inch (8.41 cm) minimum carapace length.

DATES: Comments on the proposed rule must be received on or before November 18, 1991.

ADDRESSES: Comments on the proposed rule should be sent to Richard Roe, Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-3799. Mark the outside of the envelope "Comments on the Lobster FMP."

Copies of Amendment 4, incorporating the environmental assessment and the regulatory impact review, are available from Douglas G. Marshall, Executive Director, New England Fishery

Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Paul Jones, Resource Policy Analyst, 508–281–9273.

SUPPLEMENTARY INFORMATION:

Background

The FMP was implemented on September 7, 1983 (48 FR 36266, August 10, 1983). The objective of the FMP is to promote the development and implementation, on a continuing basis, of a unified, regional management program for American lobster (*Homarus americanus*), which is designed to promote conservation, to reduce the possibility of recruitment failure, and to allow the full utilization of the resource by the U.S. industry. The FMP established a minimum size of 3 3/16 inches (8.10 cm) measured along the carapace (back) for lobsters taken from the U.S. exclusive economic zone (EEZ). The FMP also prohibited possession of egg-bearing lobsters and established trap escape vent requirements. Further efforts to achieve this objective resulted in Amendment 1 to the FMP (51 FR 19210, May 28, 1986); Amendment 2 to the FMP (52 FR 46088, December 4, 1987), which initiated the increases in the carapace length; Amendment 3 to the FMP (54 FR 48617, November 24, 1989); and this proposed rule to implement Amendment 4.

Since 1989, several industry associations, including the Massachusetts Lobstermen's Association and the Maine Lobstermen's Association, have suggested that the Council should delay increases in the carapace length beyond 3¼ inches (8.26 cm). These and other industry groups claimed that the carapace length increases put them at an economic disadvantage to Canadian lobster suppliers in both domestic and international markets. The recent Mitchell Amendment (16 U.S.C. 1857) to the Magnuson Fishery Conservation and Management Act (Magnuson Act) prohibits the shipment, transport, offer for sale, sale or purchase, in interstate or foreign commerce, of any whole live lobster smaller than the Federal minimum size. This law, however, did not satisfy the concerns of lobstermen or lobster dealers. U.S. lobstermen still felt disadvantaged on international markets that they saw as favoring smaller Canadian lobsters that commanded a lower price. Dealers alleged a loss of customers to Canadian suppliers who began to ship cheaper, illegal lobsters directly to markets throughout the United States.

On several occasions, the Council declined industry requests to postpone further size increases and reaffirmed its position to continue with the schedule of size increases to achieve its conservation objectives. By the end of 1990, however, it was apparent that the principal lobster-producing states of Maine and Massachusetts no longer supported size increases beyond 3¼ inches (8.26 cm) within the time frame set forth in Amendment 2. By the middle of 1991, all major lobster-producing states had changed their statutes or regulations governing the minimum size so that further increases in their size limits are unlikely. These recent actions by the states have created a difference between state and Federal size limits, which is further exacerbated by a difference in Canadian size limits. Therefore, the Council is proposing to decrease the size limit to 3¼ inches (8.26 cm) for a 2-year period.

Amendment 4 and this proposed rule would: (1) Reduce the minimum carapace size for American lobster to 3¼ inches (8.26 cm); (2) delay further increases in the minimum size until 2 years after the implementation of this amendment; and (3) modify the minimum dimensions of the escape vent to be consistent with the minimum carapace size.

The Councils' intent is to develop a comprehensive amendment to the FMP during this 2-year period that, if approved, may replace the minimum size increases, and would provide consistent management of the American lobster resource throughout its range and reduce the risk of overfishing. If, within 2 years of the implementation of Amendment 4, the Council submits a comprehensive amendment that is subsequently implemented by the Secretary of Commerce (Secretary), the status of further increases in the minimum size would depend upon the provisions of the comprehensive amendment.

The proposed regulations are drafted consistent with Amendment 4, which states that nonsubmission of a comprehensive amendment within the 2-year period, or disapproval of the amendment by the Secretary, will trigger resumption of the remaining minimum carapace length increases approved under Amendment 3.

The regulations propose that, if the Council submits a comprehensive amendment within 2 years, the Regional Director will postpone the date upon which the 3 9/32 inch minimum carapace length becomes effective until the 146th day after the date on which the amendment is transmitted by the Council to the Secretary.

In accordance with Amendment 3, the minimum dimensions of the escape vent would also increase to be consistent with a 3 5/16 inch (8.41 cm) minimum carapace length. At the end of the 2-year period, Amendment 4 calls for a resumption of the scheduled minimum size increases as stipulated in Amendment 2. Although Amendment 4 does not explicitly state whether the resumption begins at 3 9/32 inches or 3 5/16 inches, the Council's proposed rule, submitted with Amendment 4, makes clear the Council's intent to resume the minimum size at 3 9/32.

The purpose of Amendment 4 is to restore uniformity between Federal and state size limits by decreasing the Federal size limit to match those of the major lobster-producing states. If the Federal minimum size is not reduced, there would be some major problems. The Mitchell Amendment has the effect of banning the interstate transport or export of lobsters harvested legally in state waters that are smaller than the Federal minimum size. An estimated 5 to 7 percent of lobster landings from the inshore fishery that extends into Federal waters would not meet the Federal standards (estimates of impacts for the entire EEZ are not available). Based on average landings of 45.8 million pounds (20.7 million kilograms) from state waters in 1988 through 1990, about 2.3 to 3.2 million pounds (1.0 to 1.4 million kilograms) of lobster with a dockside value of about 6.1 to 8.6 million dollars would be included in this category. The inability to sell these lobsters, including those that can be legally harvested under state regulations, in interstate or international commerce would impose a significant economic hardship on lobstermen, dealers and distributors.

Second, the failure to establish a size limit that is consistent in state and Federal waters significantly weakens the enforcement of the Federal minimum carapace length regulation for lobsters between 3¼ inches (8.26 cm) and the Federal minimum size. Most lobstermen who fish in state waters also harvest lobsters from the EEZ. Lobsters are landed in hundreds of small ports along more than 6,000 miles (9,656 kilometers) miles of coastline in the Northeast. Since the lobster-producing states contribute to the enforcement of the size limit, there would be little incentive for state agencies to enforce standards that are not consistent with their state regulations.

Third, the difference in the minimum sizes between state and Federal waters might create an incentive for vessels to

give up their Federal permits and fish exclusively in state waters. This would force more effort inshore on the portion of the resource that is already experiencing extremely high exploitation rates.

Fourth, if Federal and state size requirements are not consistent, lobster dealers will be forced to sort their lobsters into an additional category to separate lobsters that can be sold in interstate or international commerce from those not meeting Federal standards. Many of the lobsters in these two groups differ by an almost imperceptible 1/32 inch (.08 cm) difference in carapace length or a live-weight difference of less than 1 ounce (28.3 grams).

Finally, the Council has published in the **Federal Register** a control date (57 FR 12366, March 25, 1991), after which new entrants are not guaranteed inclusion under any future limited access programs. The possibility of limited access to this resource has created great uncertainty among lobstermen who are trying to decide whether to retain their Federal permit or endorsement of their state licenses and be subject to a more restrictive Federal minimum size requirement. If they give up their Federal permits they may lose some future access privileges to lobsters in the EEZ.

The current size requirements for lobster trap escape vents (1¾ inches (4.45 cm) by 6 inches (15.24 cm) for rectangular vents and 2¼ inches (5.72 cm) diameter for circular vents) were intended to provide the maximum escapement of sublegal lobsters consistent with a near 100 percent retention of legal lobsters when the minimum carapace size was 3 3/16 inches (8.10 cm). Amendment 3 anticipated that the optimum vent size would be 1 15/16 inches (4.92 cm) if the minimum carapace size was increased to 3 5/16 inches (8.41 cm) in 1992. Under proposed Amendment 4, however, the minimum carapace size would be 3¼ inches (8.26 cm) and neither the current 1¾ inch (4.45 cm) nor the 1 15/16 inch (4.92 cm) (approved under Amendment 3) rectangular vents would provide the optimum retention/escapement levels based on the criteria established in Amendment 3. To meet the criteria used to establish the vent size under Amendment 3, which was the maximum escapement of sublegal lobsters with nearly 100 percent retention of legal lobsters, the rectangular vent size would be changed to 1⅞ inches (4.76 cm) by 6 inches (15.25 cm). The corresponding circular vent would be 2⅜ inches (6.03 cm) in diameter.

Amendment 4 also proposes the following definition of overfishing for the American lobster resource: "The American lobster resource is considered to be overfished when, based on information concerning the status of the resource throughout its range, it is harvested at a fishing mortality rate (F) and minimum size combination that results in a calculated egg production per recruit of less than 10 percent of a non-fished population." Egg production per recruit for the offshore portion of the resource is estimated at 5–6 percent of maximum. The information necessary to accurately estimate egg production per recruit for the resource throughout its range is currently unavailable. During the 2-year delay proposed in this amendment, studies will be conducted to provide this information. The results of these studies and a proposed rebuilding program for the resource, if appropriate, will be included in the comprehensive amendment being prepared by the Council.

Changes from the Rule Submitted by the Council

The regulatory text of this proposed rule has been changed to meet the standards of the Office of the **Federal Register**. The dates in § 649.20 and § 649.21 were calculated based on the assumption that this final rule would be filed on December 24, 1991, and would be effective immediately because it relieves a restriction. Thus, in § 649.21 the vent size increase scheduled for January 1, 1992, would not occur and the fishermen would have 30 days to prepare for the new escape vent requirement. If the final rule is filed on a date other than December 24, 1991, the dates in the final rule will be revised.

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended, requires the Secretary to publish regulations proposed by the Council 15 days after receipt of the amendment and proposed regulations. At this time, the Secretary has not determined that the amendment this rule would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared an environmental assessment (EA) for this amendment that discusses the impact on the environment as a result of this rule. A copy of the EA may be obtained from the Council (See ADDRESSES).

The Assistant Administrator for Fisheries, NOAA, has initially determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. This proposed rule is expected to have an annual effect on the economy of less than $100 million, will not lead to cost or price increases, and will not have significant adverse effects on competition, employment, investment, productivity, innovation or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The Council prepared a regulatory impact review (RIR) that concludes that this rule will have the following economic affects.

The reduction in the minimum size will prevent disruption of U.S. lobster supply in interstate and international trade, the forced dumping of an estimated 2.3 to 3.2 million pounds (1.0 to 1.4 kilograms) of lobster with a dockside value of about 6.1 to 8.6 million dollars on local markets, the imposition on fishermen and lobster dealers of additional handling and sorting costs, and the costs associated with enforcing a Federal minimum size regulation different from that enforced by the major lobster-producing states. These benefits are not quantifiable due to the lack of data on wholesale and retail prices for lobsters weighing less than 1 pound (0.45 kilograms) and because of the lack of econometric models for local lobster markets.

The costs associated with this proposal are the economic costs (foregone benefits) of delaying the size increases adopted in Amendment 2. Delaying the implementation of further increases in the minimum size until 1993 will delay the long-term benefits associated with these increases. The projected benefits of these size increases, however, have been greatly reduced by the failure of the states to maintain the schedule of increases adopted in Amendment 2. Other than the delay in future benefits, there are no costs associated with the proposed measure because it allows the current regulations to remain unchanged for the next 2 years, or until the FMP is amended again.

Because the costs of adopting this action would be only a delay in projected benefits of further carapace length increases, which would be greatly reduced by the failure to implement them in state waters, and because the benefits can be identified even though not quantified, this action is expected to have positive net benefits to the lobster harvesting, wholesaling and support industries. The proposed modification in the size of the escape vent is not

expected to have any measurable impacts. The 1⅞ inch (4.76 cm) width for rectangular openings and the 2⅜ inch (6.03 cm) diameter for circular vents would provide nearly the same level of retention of legal lobsters and escapement of "sublegal" lobsters under the 3¼ inch (8.26 cm) minimum size as the 1 15/16 inch (4.92 cm) width rectangular opening would for a 3 15/16 inch (8.41 cm) minimum size. Many lobstermen already use 1⅞ inch (4.76 cm) or even a 1 15/16 inch (4.92 cm) rectangular vent and some larger manufacturers install almost exclusively the larger vents in new traps.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities for the reasons stated above in the summary of the RIR. As a result, a regulatory flexibility analysis was not prepared. This amendment would provide regulatory relief to an estimated 86 offshore lobster vessels employing approximately 302 persons and to about 9,000 inshore lobster boats and vessels that fish primarily in state waters ("Status of the Fishery Resource Off the Northeastern United States for 1990"). Although not all lobstermen will be affected in the same way, the proposed amendment is expected to provide benefits to lobstermen in all areas.

Administrative, enforcement, and paperwork and recordkeeping requirements are expected to remain unchanged; thus, there are no impacts on Federal, state, or local government agencies. No data on operating costs are currently available for the harvesting sector; however, operating expenses are not expected to change. Employment impacts are expected to be slightly positive because the proposed measure will prevent possible disruption in interstate and international markets for American lobster. Impacts on the competitive position of U.S. lobstermen are expected to be positive. A copy of the Amendment that incorporated the RIR may be obtained from the Council (See ADDRESSES).

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended, require the Secretary to publish this proposed rule 15 days after its receipt. The proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

This rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Delaware, Maryland and New Jersey. This determination has been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 649

Fisheries, Reporting and recordkeeping requirements.

Dated: October 4, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 649 is proposed to be amended as follows:

PART 649—AMERICAN LOBSTER FISHERY

1. The authority citation for part 649 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 649.20, paragraph (b) is revised to read as follows:

§ 649.20 Harvesting and landing requirements.

* * * * *

(b) *Carapace length.* (1) All American lobsters landed on the dates set forth must have a minimum carapace length as follows:

Effective dates	Minimum carapace length
December 24, 1991, through December 23, 1993.	3¼ inches (8.26 cm)
December 24, 1993 December 23, 1994.	3 3/32 inches (8.33 cm)
December 24, 1994, and beyond.....	3 5/16 inches (8.41 cm)

(2) If, prior to December 23, 1993, the Council transmits a comprehensive amendment to the American Lobster Fishery Management Plan which further addresses management strategies for the American lobster throughout its range with an emphasis on alleviating any overfishing, the Regional Director shall publish a notice in the **Federal Register** postponing the date upon which the 3 3/32 inch minimum carapace length becomes effective until the 146th day after the date on which the comprehensive amendment was transmitted.

3. In § 649.21, paragraphs (c)(1), (c)(2), and (c)(3) are revised to read as follows:

§ 649.21 Gear identification and marking, escape vent, and ghost panel requirements.

* * * * *

(c) * * *

(1) Through January 22, 1992, all lobster traps must contain one of the following:

(i) A rectangular escape vent with an unobstructed opening not less than 1¾ inches (4.45 cm) by 6 inches wide (15.25 cm); if the escape vent is made by cutting meshes on a wire mesh trap, the width will be measured from center to center on the wires;

(ii) Two circular escape vents with unobstructed openings not less than 2¼ inches (5.72 cm) in diameter; or

(iii) Any other type of escape vent that the Regional Director finds to be consistent with paragraphs (c)(1)(i) and (c)(1)(ii) of this section.

(2) Effective January 23, 1992, all lobster traps must contain one of the following:

(i) A rectangular escape vent with an unobstructed opening not less than 1⅞ inches (4.76 cm) by 6 inches wide (15.25 cm); if the escape vent is made by cutting meshes on a wire mesh trap the width will be measured from center to center on the wires;

(ii) Two circular escape vents with unobstructed openings not less than 2⅜ inches (6.03 cm) in diameter; or

(iii) Any other type of escape vent that the Regional Director finds to be consistent with paragraphs (c)(2)(i) and (c)(2)(ii) of this section. The Regional Director, consistent with 5 U.S.C. 553, shall publish a notice of any other type of acceptable escape vent in the **Federal Register.**

(3) Effective December 24, 1994, all lobster traps must contain one of the following:

(i) A rectangular escape vent with an unobstructed opening not less than 1 15/16 inches (4.92 cm) by 6 inches wide (15.25 cm); if the escape vent is made by cutting meshes on a wire mesh trap, the width will be measured from center to center on the wires;

(ii) Two circular escape vents with unobstructed openings not less than 2 7/16 inches (6.19 cm) in diameter; or

(iii) Any other type of escape vent that the Regional Director finds to be

consistent with paragraphs (c)(3)(i) and (c)(3)(ii) of this section. The Regional Director, consistent with 5 U.S.C. 553, shall publish a notice of any other type of acceptable escape vent in the Federal Register.

* * * * *

[FR Doc. 91-24359 Filed 10-4-91; 4:57 pm]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 56, No. 197
Thursday, October 10, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

October 4, 1991.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable, (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

New Collection

- Food and Nutrition Service
  Adult Day Care Study.
  One time survey.
  Individuals or households; State or local governments; non-profit institutions; small businesses or organizations; 1,952 responses; 1,920 hours.
  Leslie Christovich (703) 756–3133.

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 91–24474 Filed 10–9–91; 8:45 am]

BILLING CODE 3410–01–M

Public Hearings of the President's Council on Rural America

AGENCY: Department of Agriculture.

ACTION: Notice of public hearings.

SUMMARY: The Under Secretary for Small Community and Rural Development, Department of Agriculture, is announcing the next series of public hearings to be held by the President's Council on Rural America. These hearings are open to all interested parties.

DATES: The third hearing will be Wednesday, October 23, 1991, from 9 a.m. to 5 p.m. The fourth will be Tuesday, October 29, 1991, from 9 a.m. to 5 p.m. The fifth will be Thursday, November 7, 1991, from 9 a.m. to 5 p.m. The sixth will be Thursday, November 14, 1991, from 9 a.m. to 5 p.m. An additional hearing will be announced in a future publication of the **Federal Register.**

ADDRESSES: The October 23 meeting will be held at: Holiday Inn, East, 3100 S. Dirksen Parkway, Springfield, Illinois.

The October 29 meeting will be held at: Hotel El Rancho, 1029 W. Capitol Avenue, West Sacramento, California.

The November 7 meeting will be held at: Cornell Cooperative Extension Building, 840 Front Street, Binghamton, New York.

The November 14 meeting will be held at: Hilton of Santa Fe, 100 Sandoval Street, Sante Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Jennifer Pratt, Special Assistant to the Council, Office of Small Community and Rural Development, room 5405 South Building, USDA, Washington, DC 20250, (202) 382–0394.

SUPPLEMENTARY INFORMATION: The President's Council on Rural America was established by Executive Order on July 16, 1990. Members are appointed by the President and include representatives from the private sector and from State and local governments. The Council is reviewing and assessing the Federal Government's rural economic development policy and will advise the President and the Economic Policy Council on how the Federal Government can improve its rural development policy. The purpose of the hearings is to seek information from both development experts and the public-at-large which will help the Council develop rural policy, as is their mandate.

The Council will hear from invited experts during the morning sessions, but will open the microphone in the afternoons to all interested parties, on a first come, first served basis. All speakers should be prepared to leave 5 copies of an executive summary of their presentation with the Council. Written materials may be submitted in person or by mail to the attention of Jennifer Pratt.

The Council is seeking input on the following issues:

- What is government doing right to assist you? What are they doing wrong? What are the barriers you have encountered in trying to undertake economic development.
- What roles should each level of government play in development?
- What are you doing to collaborate with other sectors and levels of government?
- Is the Federal funding delivery system working for your community?
- What is needed in your community to ensure a good quality of life (i.e., health, recreation, environment)?
- What is needed in your community to ensure that everyone has sufficient income to lead a comfortable life?
- What is needed so that people in your community will learn what they need to through the educational system?
- What is unique to your area? What needs to be done to solve—

(a) isolation?
(b) quality of life problems?
(c) economic plight?
(d) low income and minority problems?

Dated: October 4, 1991.

Roland R. Vautour,

Under Secretary for Small Community and Rural Development.

[FR Doc. 91–24358 Filed 10–9–91; 8:45 am]

BILLING CODE 3410–07–M

Office of the Secretary

Determination of Total Amount and Quota Period for Tariff-Rate Quota for Certain Imported Sugars, Syrups, and Molasses

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice establishes the total amount of 1,385,000 metric tons,

raw value, of sugars, syrups, and molasses that may be entered under subheadings 1701.11.01, 1701.12.01, 1701.91.21, 1701.99.01, 1702.90.31, 1806.10.41, and 2106.90.11 of the Harmonized Tariff Schedule of the United States (HTS) and establishes the period of October 1, 1991 through September 30, 1992 for the entry of such total amount of sugars, syrups, and molasses.

EFFECTIVE DATE: October 10, 1991.

ADDRESSES: Inquiries may be mailed or delivered to the Team Leader, Import Quota Programs, Foreign Agricultural Service, room 5531, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Cleveland H. Marsh (Team Leader, Import Quota Programs), 202–447–2916.

SUPPLEMENTARY INFORMATION: Pargraph (a)(i) of additional U.S. note 3 to chapter 17 of the HTS, as modified by Presidential Proclamation No. 6301 of June 7, 1991 (56 FR 26887), provides as follows:

> The total amount of sugars, syrups, and molasses entered, or withdrawn from warehouse for consumption, under subheadings 1701.11.01, 1701.12.01, 1701.91.21, 1701.99.01, 1702.90.31, 1806.10.41, and 2106.90.11, during such period as shall be established by the Secretary of Agriculture (hereinafter referred to as "the Secretary"), shall not exceed in the aggregate an amount (expressed in terms of raw value) as shall be established by the Secretary. The Secretary shall determine such total amount as will give due consideration to the interests in the U.S. sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade. Such total amount shall consist of (1) a base quota amount, (2) a quota adjustment amount, and (3) an amount reserved for the importation of specialty sugars as defined by the United States Trade Representative, to be allocated by the United States Trade Representative.

These provisions of paragraph (a)(i) of additional U.S. note 3 to chapter 17 of the HTS authorize the Secretary of Agriculture to establish a total amount (expressed in terms of raw value) for imports of sugars, syrups, and molasses that may be entered under the subheadings of the HTS subject to the lower tier of duties [1] of the tariff-rate quota and to establish the time period for entry of such total amount.

The Secretary is required to determine such total amount as will give due consideration to the interests in the U.S. sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade (GATT). The total amount, consisting of a base quota amount, a quota adjustment amount, and an amount reserved for the importation of specialty sugars, is to be allocated by the United States Trade Representative (USTR), in accordance with paragraph (b) of additional U.S. note 3 to chapter 17 of the HTS.

Notice

Notice is hereby given that I have determined, in accordance with paragraph (a) of additional U.S. note 3 to chapter 17 of the HTS, that a total amount of up to 1,385,000 metric tons, raw value, of sugars, syrups, and molasses described in subheadings 1701.11.01, 1701.12.01, 1701.91.21, 1701.99.01, 1702.90.31, 1806.10.41, and 2106.90.11 of the HTS may be entered or withdrawn from warehouse for consumption during the period from October 1, 1991 through September 30, 1992. I have further determined that the base quota amount is 1,321,000 metric tons, raw value; 332 metric tons, raw value, are reserved as a quota adjustment amount; and the amount reserved for the importation of specialty sugars is 1,656 metric tons, raw value. These amounts will be allocated among supplying countries and areas by the United States Trade Representative.

I have also determined that such total amount will give due consideration to the interests in the U.S. sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade.

Signed at Washington, DC on September 30, 1991.

Ann M. Veneman,

Acting Secretary of Agriculture.

[FR Doc. 91–24357 Filed 10–9–91; 8:45 am]

BILLING CODE 3410–10–M

[1] Pursuant to paragraph (a) of additional U.S. note 4 to chapter 17 of the HTS the duty-free treatment accorded to the importation of sugars, syrups, and molasses from the beneficiary countries of the Generalized System of Preferences (GSP) and Caribbean Basin Economic Recovery Act (CBERA), entered under the subheadings of the HTS subject to the lower tier of the tariff-rate quota, is limited to the quantities as established by the Secretary and allocated by the United States Trade Representative pursuant to paragraphs (a) and (b), respectively, of additional U.S. note 3 to chapter 17. Currently, imports of sugars, syrups, and molasses from all beneficiary countries for purposes of the GSP and CBERA, except Brazil, are eligible for duty free entry in amounts not exceeding these allocated by the United States Trade Representative pursuant to paragraph (b) of additional U.S. note 3 to chapter 17 of the HTS.

Animal and Plant Health Inspection Service

[Docket 91–137]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits to Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that two environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The assessments provide a basis for the conclusion that the field testing of the genetically engineered organisms will not present a risk of the introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on these findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Petrie, Program Specialist, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, 20782, (301) 436–7612. For copies of the environmental assessment and finding of no significant impact, write Mr. Clayton Givens at this same address. The documents should be requested under the permit number listed below.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set

forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing the permit applications, APHIS assessed the impact on the environment of releasing the organisms under the conditions described in the permit applications. APHIS concluded that the issuance of the permits listed below will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impact associated with conducting the field test.

An environmental assessment and finding of no significant impact has been prepared by APHIS relative to the issuance of the following permits to allow the field testing of genetically engineered organisms:

Permit number	Permittee	Date issued	Organism	Field test location
91-156-01	University of Florida	08-29-91	Tobacco plants genetically engineered to express the tobacco etch virus (TEV) coat protein gene derivatives..	Alachua County, Florida
91-144-01	Monsanto Agricultural Company	09-16-91	Cotton plants genetically engineered to express the *Bacillus thuringiensis* subsp. *kurstaki* HD-1 delta-endotoxin protein..	Kauai County, Hawaii

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1509), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 4th day of October 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-24475 Filed 10-9-91; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 91-136]

Availability of List of U.S. Veterinary Biological Product and Establishment Licenses, and U.S. Veterinary Biological Product Permits Issued, Suspended, Revoked, or Terminated

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice is to advise the public of veterinary biological product and establishment licenses and veterinary biological product permits that were issued, suspended, revoked, or terminated by the Animal and Plant Health Inspection Service, during the month of July 1991. These actions have been taken in accordance with the regulations issued pursuant to the Virus-Serum-Toxin Act. The purpose of this notice is to notify interested persons of the availability of a list of these actions and advise interested persons that they may request to be placed on a mailing list to receive the listing.

FOR FURTHER INFORMATION CONTACT: Joan Montgomery, Program Assistant, Veterinary Biologics, Biotechnology, Biologics, and Environmental Protection, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–4873. For copies of the list or to be placed on the mailing list, write to Ms. Montgomery at the above address.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 102, "Licenses For Biological Products," require that every person who prepares certain biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

The regulations in 9 CFR part 102 also require that each person who prepares biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold a U.S. Veterinary Biologics Establishment License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

The regulations in 9 CFR part 104, "Permits for Biological Products," require that each person importing biological products shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product Permit. The regulations set forth the procedures for applying for a permit, the criteria for determining whether a permit shall be issued, and the form of the permit.

The regulations in 9 CFR parts 102 and 105 also contain provisions concerning the suspension, revocation, and termination of U.S. Veterinary Biological Product Licenses, U.S. Veterinary Biologics Establishment Licenses and U.S. Veterinary Biological Product Permits.

Each month the Veterinary Biologics section of Biotechnology, Biologics, and Environmental Protection prepares a list of licenses and permits that have been issued, suspended, revoked, or terminated. This notice announces the availability of the list for July 1991. The list is also mailed on a regular basis to interested persons. To be placed on the mailing list you may call or write the person designated under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 7th day of October 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-24476 Filed 10-9-91; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Key Mining Project, Colville National Forest, Ferry County, WA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, USDA, in conjunction with the Bureau of Land Management (BLM), U.S. Department of Interior, the Washington State Department of Ecology, and the Washington State Department of Natural Resources will prepare an environmental impact statement (EIS) to analyze and disclose the environmental impacts of a site-specific proposal to conduct surface gold mining operations. Part of the area where disturbance is proposed is on the Republic Ranger District of the Colville National Forest; a small portion lies on land within the Border Resource Area of the Spokane District, administered by the BLM; and another portion lies on patented mining claims and fee simple lands controlled by the project proponent and falling under the jurisdiction of the Washington State Department of Ecology and the Washington State Department of Natural Resources. The proposed project will be in compliance with the 1988 Colville Forest Land and Resource Management Plan (Forest Plan), which provides overall guidance for the management of the Colville National Forest. The proposed project will be implemented within portions of the Lambert Creek and North Fork Sanpoil drainages. Project implementation is proposed for the spring of 1992. The agencies invite written comments and suggestions on the proposal and the scope of the analysis. The agencies will give notice of the full environmental analysis and decision making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning this project should be received by November 15, 1991.

ADDRESSES: Submit written comments and suggestions concerning this project to Edward L. Schultz, Forest Supervisor, 695 South Main, Colville, Washington 99114 or Patricia Egan, District Ranger, P.O. Box 468, Republic, Washington 99166.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed project work and EIS should be directed to Patricia Egan, District Ranger, P.O. Box 468, Republic, Washington 99166, Ph: (509) 775–3305.

SUPPLEMENTARY INFORMATION: The site-specific proposal includes the development of two open pit mines, their associated waste rock disposal areas and a haul road from the pits to the existing Overlook Mine. Processing of ore would be accomplished at the existing Key Mill located about four miles from the proposed pits. Total surface disturbance anticipated from this proposal is about 145 acres of which about 63 acres would be located on National Forest System lands.

A reasonable range of alternatives will be explored, including the no action alternative, various mining methods and locations for the waste rock disposal areas, various rates of mining, and possible variation in haul road widths and design. Implementation of the proposed action would extend over a period of approximately 3 to 5 years.

The proposal addressed through this EIS will tier to the final EIS for the Forest Plan. The Forest Plan provides the overall guidance (Goals, Objectives, Standards and Guidelines, and Management Area direction) in achieving the desired future condition of the National Forest System lands in this area.

As part of the scoping process and because of the potential controversial nature of surface mining activities in this area, other Federal, State and local agencies, tribes, and other individuals and organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. Scoping will include:

1. Determination of potential additional cooperating agencies and assignment of responsibilities.
2. Identification of the issues to be addressed.
3. Identification of the issues to be analyzed in depth.
4. Elimination of insignificant issues, issues covered by previous environmental review, and issues not within the scope of this decision.
5. Exploration of potential alternatives to the proposal.
6. Identification of potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

Scoping and analysis for this project began in August 1991 and is expected to take about five months. Notification of scoping will include public notices and individual communications. The agencies cooperating in this environmental analysis invite written comments and suggestions on the proposed project and the scope of the analysis. As part of the scoping phase of the analysis, the Forest Service and the Washington State Department of Ecology will hold a public meeting for scoping from 3 to 7 p.m. on October 23, 1991 at the Frontier Inn in Republic, Washington.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by January 1992. At that time the EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service and the Washington State Department of Ecology will participate as joint lead agencies in the preparation of this EIS. The BLM and Washington State Department of Natural Resources will participate as cooperating agencies.

Responsible official for National Forest System lands is Edward L. Schultz, Forest Supervisor, Colville National Forest.

The participating agencies believe it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 f. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action must participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Agencies at a time when they can meaningfully consider them and respond to them in the final EIS. To assist the participating agencies in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The final EIS is scheduled for completion by April, 1992. In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period that

pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. The responsible official will decide which, if any, of the proposed project alternatives will be implemented. The responsible official will document the decision and rationale for the decision in the Record of Decision. That decision will be subject to Forest Service appeal Regulations (36 CFR part 217).

Dated: October 1, 1991.

Edward L. Schultz,

Forest Supervisor.

[FR Doc. 91-24429 Filed 10-9-91; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Jackson Creek Critical Area Treatment RC&D Measure, New York

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not begin prepared for the Jackson Creek Critical Area Treatment, Schuyler County, New York.

FOR FURTHER INFORMATION CONTACT: Paul A. Dodd, State Conservationist, Soil Conservation Service, James M. Hanley Federal Building, 100 S. Clinton Street, room 771, Syracuse, New York 13261-7248, telephone (315) 423-5521.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings Paul A. Dodd, State Conservationist, has determined that the preparation of an environmental impact statement is not needed for this project.

This measure concerns a plan to provide for the stabilization of an eroding streambank on Jackson Creek adjacent to Schuyler County Route 13. Continued erosion will impair the road surface and create a severe safety hazard to users of the highway. The integrity of the streambank will be assured though the installation of project measure. The planned works of improvement include approximately 188 linear feet of riprap and bedding, and approximately 1 acre of seeding and mulching. Benefits will be derived through the elimination of the safety hazard, improvement of water quality, and the reduction of annual cost of maintenance.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Paul A. Dodd. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provision of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Dated: September 26, 1991.

Paul A. Dodd,

State Conservation.

[FR Doc. 91-24387 Filed 10-9-91; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1992 National Census Test.

Form Number(s): DA-91A, DA-91B, DA-91C, DA-91D,DA-91E, and two telephone questionnaires.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 2,454 hours.

Number of Respondents: 19,000.

Avg Hours Per Response: 7.75 minutes.

Needs and Uses: The Census Bureau is concerned about declining response rates to mail-out decennial census questionnaires. This survey will test whether a simplified questionnaire with fewer questions provides a higher response rate than a questionnaire of greater length. The test will consist of five questionnaires: (1) A user friendly form with four questions; (2) a user friendly form with four questions plus a social security question for each person in the household; (3) a postcard-type form with only name and date of birth for each person in the household; (4) a user friendly form with all questions from the 1990 census short form except the household roster; and (5) a 1990 census short form. There will also be a telephone debriefing of a sample of respondents and nonrespondents to learn about reactions to the forms.

Affected Public: Individuals or households.

Frequency: One-time only.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, 395-7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 7, 1991.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 91-24498 Filed 10-9-91; 8:45 am]

BILLING CODE 3510-07-F

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council's Advisory Panels will hold public meetings from October 28-31, 1991, at the Quality Inn New Orleans Airport Hotel, 1021 Airline Highway, Kenner, Louisiana.

The Shrimp Advisory Panel will begin its meeting on October 28 at 10 a.m. and recess at 5 p.m. The Panel will review draft Amendment #6 to the Shrimp Fishery Management Plan (FMP) and discuss a limited access paper for shrimp. The meeting will reconvene on October 29 at 8 a.m. and adjourn at 5 p.m.

The Standing and Special Reef Fish Scientific and Statistical Committee will begin its meeting on October 29 at 8 a.m., to review the summary of stock assessments for red grouper, vermillion snapper, and amberjack and to review

the stock assessment and the socioeconomic assessment panels' reports. The meeting will adjourn at noon.

The Standing and Special Red Drum Scientific and Statistical Committee will begin its meeting on October 29 at 1:30 p.m., to review the National Marine Fisheries Service stock assessment and the stock assessment and the socio-economic panels' reports. The meeting will adjourn at 5 p.m.

The Standing and Special Shrimp Scientific and Statistical Committee will begin its meeting on October 30 at 8 am., to review draft Amendment #6 to the Shrimp FMP. The meeting will adjourn at 11:30 am.

The Standing and Special Mackerel Scientific and Statistical Committee will begin its meeting on October 30 at 12:30 p.m., to review draft Amendment #6 to the Mackerel FMP. The meeting will adjourn at 4:30 p.m.

The Mackerel Advisory Panel will begin its meeting on October 31 at 9:30 am., to review draft Amendment #6 to the Mackerel FMP. The meeting will adjourn at 4:30 p.m.

FOR MORE INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 881, Tampa, FL; telephone: (813) 228–2815.

Dated: October 4, 1991.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–24438 Filed 10–9–91; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Temporary Emergency Waiver of Export Visa and Certification Requirements for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Haiti

October 7, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs waiving export visa and certification requirements.

EFFECTIVE DATE: October 7, 1991.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Effective on October 7, 1991, and until further notice, textile products which are produced or manufactured in Haiti and exported from Haiti on or after September 25, 1991, shall not be denied entry for lack of a visa or certification. The waiver is a temporary emergency measure which is being taken by the U.S. Government and which only waives the requirement to present a visa or certification with the shipment. It does not waive other documentation requirements. Textile products exported from Haiti on or after September 25, 1991 shall continue to be charged against any existing quota or guaranteed access level.

See **Federal Register** notice 52 FR 6053, published on February 27, 1987.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 7, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This letter refers to the directive of February 19, 1987 from the Chairman of the Committee for the Implementation of Textile Agreements establishing new visa and certification requirements for certain cotton, wool and man-made fiber textile products from Haiti. That letter directed you, until further notice, to prohibit entry into the United States for consumption or withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products, produced or manufactured in Haiti, which are not visaed or certified in accordance with procedures described in the letter.

Effective on October 7, 1991, and until further notice, you are directed not to deny entry of textile products, produced or manufactured in Haiti and exported from Haiti on or after September 25, 1991, for lack of a visa or certification. Textile products shall continue to be charged against any existing quota or guaranteed access level, as appropriate, based on a review of the entry documents, including the ITA–370P form.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–24539 Filed 10–7–91; 4:16 pm]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Coastal Engineering Research Board (CERB); Open Meeting

AGENCY: Coastal Engineering Research Engineering Board, Corps of Engineers, Department of the Army.

ACTION: Notice of open meeting.

Name of Committee: Coastal Engineering Research Board (CERB).

Date of Meeting: October 30–November 1, 1991.

Place: Christ the King Roman Catholic Church Parish Center, Mashpee, Massachusetts.

Time: 8 a.m. to 5 p.m. on October 30; 8 a.m. to 3:30 p.m. on October 31; 9 a.m. to 11 a.m. on November 1, 1991.

Theme: Dredging.

Proposed Agenda: The morning session on October 30 will consist of a review of CERB business; presentations including An Overview of the SUPERTANK Laboratory Data Collection Project, A First Look at the SUPERTANK Hydrodynamic Data, Hurricane Bob Report, Disposal Area Monitoring System, New Bedford Superfund Project, and a Field Trip Overview.

The afternoon of October 30 will be devoted to a field trip to Cape Cod Canal and the Breach at Nauset Beach.

The session on October 31 will consist of the Chief's Charge to the Board; Review of the Corps of Engineers' Dredging Program, Policy and Practices; and two panels with several presentations addressing a specific topic for each panel. The first topic to be addressed is "Fate of Dredged Material Placed Offshore." Presentations include DRP research into Dredged Material Behavior in Subaqueous Locations, The Mobile Berms Project, and Management of Dredged Material Placed in Subaqueous Locations. The Second topic to be addressed is "Effects of Inlet Dredging Projects on Adjacent Shorelines." Presentations include Sediment Transport in the Vicinity of Inlets, Section 933 and 111 Programs, Impact of Inlet Dredging on Shore Erosion in Florida, Application of Material from Inlet Dredging, and

Proposed Coastal inlet Research Program.

On November 1, the Board will report on their recommendations response to the Chief's Charge.

This meeting is open to the public; participation by the public is scheduled for 9:15 a.m. on November 1.

The entire meeting is open to the public subject to the following:

1. Since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements.

2. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Inquiries and notice of intent to attend the meeting may be addressed to Colonel Larry B. Fulton, Executive Secretary, Coastal Engineering Research Board, U.S. Army Engineer Waterway Experiment Station, 3909 Halls Ferry Road, Vicksburg, Mississippi 39180–6199.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 91–24437 Filed 10–9–91; 8:45 am]

BILLING CODE 3710–92–M

National Board for the Promotion of Rifle Practice; Open Meeting

AGENCY: National Board for the Promotion of Rifle Practice, Department of the Army.

ACTION: Notice of open meeting.

Name of Committee: National Board for the Promotion of Rifle Practice Budget Committee.

Date of Meeting: December 12, 1991.

Place: Embassy Suites, 1900 Diagonal Road, Alexandria, VA 22314.

Time: 0930–1600 hours.

Proposed Agenda:

1. Roll Call.

2. Approval of previous Board minutes.

3. Review of Fiscal Year 1991 Budget.

4. Fiscal Year 1992 Budget and Obligations Plan.

5. Approval of Budget.

6. Old Business.

7. New Business.

This meeting is open to the public. Persons desiring to attend the meeting should contact Mr. Dennis W. Gaelic or Mrs. Terr Cusic at (202) 272–0810 prior to October 18, 1991 to arrange admission.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 91–24436 Filed 10–9–91; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

CNO Executive Panel; Closed Meeting

On Wednesday, August 7, 1991, a Notice of a closed meeting of the Chief of Naval Operations (CNO) Executive Panel Space and Electronic Combat Standing Task Force was published at 56 FR 37533. That meeting was originally scheduled to be held on September 13, 1991. That meeting date was changed to October 15, 1991, and a new Notice of a closed meeting was published on September 16, 1991, at 56 FR 46770. The October 15, 1991, meeting date has also been changed.

The Chief of Naval Operations (CNO) Executive Panel Space and Electronic Combat Standing Task Force will now meet Thursday, November 7, 1991 from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: October 1, 1991.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 91–24439 Filed 10–9–91; 8:45 am]

BILLING CODE 3810–AE–F

DEPARTMENT OF ENERGY

Class I Oil Program: Near-Term and Mid-Term Activities

AGENCY: Pittsburgh Energy Technology Center, Department of Energy.

ACTION: Program Opportunity Notices (PON's).

SUMMARY: The Department of Energy (DOE), Bartlesville Project Office announces that it intends to issue two (2) competitive Program Opportunity Notices, DE–PS22–92BC14804 and DE–PS22–92BC14805, and to award financial assistance (Cooperative Agreements) in support of maximizing the economic producibility of the Domestic Oil Reserves.

SUPPLEMENTARY INFORMATION: The first of the pair of solicitations is entitled, "Class I Oil Program: Near-Term Activities" (DE–PS22–92BC14804). The specific objective of this solicitation is to conduct cost-shared projects that lead to maximizing the economic producibility of the domestic oil resource in the near term (within 5 years) by promoting greater application of proven or improved technologies to preserve access to fluvial dominated deltaic reservoirs that are approaching their economic limits. Projects are expected to lead to a significant increase in domestic reserves. Through this "NEAR-TERM" PON, DOE anticipates receiving proposals in currently available, proven oil recovery technologies. The technologies DOE solicits are in the areas of production, drilling, completion, stimulation, and reservoir management. Examples of these technologies being targeted include but are not limited to: Geologically targeted infill drilling; secondary recovery technologies such as waterflooding; advanced secondary technologies such as polymer flooding and profile modification; horizontal drilling; well stimulation or fracturing; well remediation; and improved reservoir management.

The second of the pair of solicitations is entitled "Class I Oil Program: Mid-Term Activities" (DE–PS22–92BC14805). The specific objective of this solicitation is to conduct cost-shared projects that lead to maximizing the economic producibility of the domestic oil resource in the mid term (within 10 years) by demonstrating advanced technologies that are expected to lead to a significant increase of domestic reserves in fluvial dominated deltaic reservoirs. Through this "MID-TERM" PON, DOE anticipates receiving proposals in advanced oil recovery technologies. Advanced technologies represent significant improvement in process effectiveness (i.e., greater sweep efficiencies or improved economics) or applicability (i.e., at greater temperature or salinity) over currently available technologies or represent a new technology not successfully demonstrated in the field. The advanced technologies may be in the areas of reservoir characterization, secondary recovery processes, tertiary recovery processes, infill drilling, well completion, stimulation, or reservoir management. Some example technologies are: Advanced reservoir imaging or measurement techniques to target infill drilling of horizontal or vertical wells; polymer augmented waterflooding using polymers tolerant of high salinity or high temperature; use of mobility control agents (foams) with gas

or steam injection; alkaline-enhanced surfactant-polymer (ASP) process; and alkaline or surfactant systems tolerant of high temperatures or high salinity.

These solicitations are scheduled for release on or about October 15, 1991. Organizations interested in being placed on the Department of Energy's source list for the Program Opportunity Notices are requested to submit a written response to the address below.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P. O. Box 10940, MS 921–118, Pittsburgh, PA 15236, Attn: Keith R. Miles, Telephone: AC 412/892–5984.

Dated: October 3, 1991.

Dale A. Siciliano,

Chief, Contracts Group I, Acquisition and Assistance Division, Pittsburgh Energy Technology Center.

[FR Doc. 91–24486 Filed 10–9–91; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. CP91–3231–000, et al.]

Pacific Gas Transmission Co., et al.; Natural Gas Certificate Filings

October 3, 1991.

Take notice that the following filings have been made with the Commission:

1. Pacific Gas Transmission Company

[Docket No. CP91–3231–000]

Take notice that on September 30, 1991, Pacific Gas Transmission Company (PGT) 160 Spear Street, suite 1960, San Francisco, California 94105–1570, filed in Docket No. CP91–3231–000 an application pursuant to section 7(c) of the Natural Gas Act for authorization to designate an additional receipt point for natural gas that PGT transports for Northwest Pipeline Corporation (Northwest) under the existing certificate of public convenience and necessity issued to PGT in Docket No. G–17350, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

PGT states that it owns and operates a natural gas pipeline which extends approximately 612 miles from the International Boundary at Kingsgate, British Columbia (Kingsgate) to the Oregon-California border near Malin, Oregon. In addition, PGT states that as part of the Prebuilt phase of the Alaska Natural Gas Transportation System (ANGTS), it owns and operates an additional 160 miles of 42–inch pipeline looping at various locations between the International Border and Stanfield, Oregon.

According to PGT, it has two longstanding firm transportation customers, Northwest and Pacific Interstate Transmission Company (PITCO). It is stated that Northwest currently purchases Canadian gas supplies form Westcoast Energy Marketing, Ltd. (Westcoast) at Kingsgate, where it is delivered to PGT. PGT states that it then transports the natural gas on a firm basis under Rate Schedule T–1 to points specified by Northwest along PGT's pipeline in the States of Idaho, Washington and Oregon. PGT further states that its facilities interconnect with those of Northwest at Spokane, Washington, and near Stanfield, Oregon. It is stated that PITCO purchases its Canadian gas supply from Northwest Alaskan Pipeline Company (Northwest Alaskan) at Kingsgate, where it is delivered to PGT. PGT then transports this gas for PITCO on a firm basis through its Prebuild Facilities.

PGT states that it now proposes to designate an additional receipt point at the existing Stanfield interconnection for the gas it transports for Northwest under Rate Schedule T–1. PGT states that this proposed new receipt point will significantly enhance the flexibility and reliability of Northwest's service to several local distribution companies in Idaho, Washington and Oregon. Further, PGT states that receipts from Northwest at Stanfield will be accomplished by displacement rather than physical receipt, and that transportation to delivery points upstream of Stanfield will be accomplished by means of backhaul. PGT states that no physical facilities are required, nor will PGT receive gas from Northwest as a result of this new arrangement. Instead, PGT states that it will simply increase its deliveries to Northwest at Spokane and other delivery points and reduce by an equivalent amount its physical deliveries to Northwest at Stanfield. In turn, this will make it unnecessary for Northwest to construct new compression facilities to permit physical delivery of gas into the PGT system at that point.[1]

PGT states that it will continue to provide service to Northwest in accordance with the provisions of Rate Schedule T–1, and therefore that no rate changes are necessary in connection with this proposal. However, PGT states that it is submitting a minor modification to Rate Schedule T–1 to clarify that no fuel reimbursement will be required in the case of volumes that are delivered to Northwest by means of backhaul.

Comment date: October 24, 1991, in accordance with Standard Paragraph F at the end of this notice.

2. Florida Gas Transmission Company

[Docket No. CP91–3212–000]

Take notice that on September 27, 1991, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP91–3212–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of The City of Lakeland (Lakeland), under FGT's blanket certificate issued in Docket No. CP89–555–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

FGT requests authorization to transport for Lakeland, on an interruptible basis under FGT's Rate Schedule PTS–1, up to a maximum of 4,209 MMBtu of natural gas on a peak day, 3,157 MMBtu on an average day and 1,536,287 MMBtu on an annual basis prior to the in-service date of Phase II expansion facilities. It is stated that the gas volumes to be transported after Phase II expansion facilities are placed in service are 3,735 MMBtu on a peak day, 2,801 MMBtu on an average day and 1,363,357 MMBtu on an annual basis. It is further stated that FGT will transport the gas for Lakeland from receipt points located in Texas, Louisiana, Mississippi, Alabama, Florida, Offshore Texas and Offshore Louisiana to delivery points located in Polk County, Florida.

FGT states that the transportation of natural gas for Lakeland commenced September 1, 1991, as reported in Docket No. ST91–10463–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to FGT in Docket No. CP89–555–000.

Comment date: November 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] PGT states that on July 1, 1991, the Commission issued a preliminary determination in Docket No. CP91–780–000, 56 FERC ¶ 61,006, which approved construction of new compression facilities by Northwest at the Stanfield interconnection.

3. Panhandle Eastern Pipe Line Company

[Docket No. CP91–3227–000]

Take notice that on September 30, 1991, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed a request with the Commission in Docket No. CP91–3227–000 pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to provide an interruptible natural gas transportation service for PPG Industries, Inc. (PPG), an end-user, and construct and operate two taps on PPG's property in Mt. Zion, Macon County, Illinois, under the respective blanket certificates issued in Docket No. CP86–585–000 and CP83–83–000 pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

Panhandle proposes to transport up to 10,000 Dth per day of natural gas pursuant to an October 15, 1990, agreement under its FERC Rate Schedule PT. Panhandle indicates that it would transport the gas from Colorado, Illinos, Kansas, Louisiana, offshore Louisiana, Michigan, Ohio, Oklahoma, Texas, offshore Texas, and Canada, and delivered the gas to PPG in Illinois. Panhandle further indicates that it would transport 10,000 Dth on an average day and 3,650,000 Dth annually.

Panhandle also proposes to construct and operate two taps and appurtenant facilities on PPG's property in Mt. Zion in order to delivery PPG's gas. Panhandle states that PPG would reimburse Panhandle for the estimated $345,700 construction cost of these proposed facilities.

Comment date: November 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

4. Transcontinental Gas Pipe Line Corporation

[Docket Nos. CP91–3228–000, CP91–3229–000, CP91–3230–000]

Take notice that Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP88–328–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: November 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Appendix

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual Dth	Receipt [1] points	Delivery points	Contract date, rate schedule, service type	Related docket, Start up date
CP91–3228–000 (9–30–91)	Bishop Pipeline Corporation (Shipper).	500,000 100,000 36,500,000	OTX, OLA, Various pts onshore.	LA, TX	7–19–91, IT, Interruptible.	ST91–10283, 8–1–91.
CP91–3229–000 (9–30–91)	B&C Oil Company (Shipper).	1,000 850 310,250	OTX, OLA, Various pts onshore.	LA	8–8–91, IT, Interruptible.	ST91–10287, 8–9–91.
CP91–3230–000 (9–30–91)	Superior Natural Gas Corporation (Shipper).	150,000 150,000 54,750,000	OTX, OLA, Various pts onshore.	LA, TX	6–20–91, IT, Interruptible.	ST91–10281, 8–1–91.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

5. Colorado Interstate Gas Company

[Docket No. CP91–3220–000]

Take notice that on September 30, 1991, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP91–3220–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity for authorization to increase the General Daily entitlement (GDE) and General Service Entitlement (GSE) for Citizens Utility Company (Citizens), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Citizens purchases gas from CIG under CIG's FERC Gas Tariff, Original Volume No. 1, Rate Schedules P–1 and EX–1. CIG proposes to increase Citizen's GDE from 1,000 Mcf to 3,200 Mcf and the GSE from 132,500 Mcf to 315,000 Mcf. It is further stated that CIG has a firm transportation agreement with Citizens and will reduce transportation service by a corresponding volume to the increase in sales service.

Comment date: October 24, 1991, in accordance with Standard Paragraph F at the end of the notice.

6. Trunkline Gas Company

[Docket Nos. CP91–3221–000, CP91–3222–000, CP91–3223–000, CP91–3224–000, CP91–3225–000, CP91–3226–000]

Take notice that on September 30, 1991, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP86–586–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[3]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by

[3] These prior notice requests are not consolidated.

Trunkline and is summarized in the attached appendix.

Comment date: November 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

Appendix

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual Mcf	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-3221-000 (9-30-91)	TXG Gas Marketing Co. (Marketer).	100,000 100,000 36,500,000	Various	LA	PT, Interruptible	ST91-10062-000, 8-2-91.
CP91-3222-000 (9-30-91)	Centran Corporation (Marketer).	50,000 50,000 18,500,000	Various	LA	PT, Interruptible	ST91-10027-000, 8-2-91.
CP91-3223-000 (9-30-91)	CMS Gas Marketing Co. (Marketer).	75,000 75,000 27,375,000	Various	IL	PT, Interruptible	ST91-10061-000, 8-10-91.
CP91-3224-000 (9-30-91)	Arcadian Corporation (End-User).	100,000 100,000 36,500,000	Various	LA	PT, Interruptible	ST91-10031-000, 8-3-91.
CP91-3225-000 (9-30-91)	Neste Oy (Marketer)	50,000 50,000 18,250,000	Various	IN	PT, Interruptible	ST91-10029-000, 8-6-91.
CP91-3226-000 (9-30-91)	Unicorp Energy, Inc. (Marketer).	200,000 200,000 73,000,000	Various	IN	PT, Interruptible	ST91-10032-000, 8-2-91.

7. Florida Gas Transmission Company, Columbia Gas Transmission Corporation, and Columbia Gas Transmission Corporation

[Docket Nos. CP91-3232-000, CP91-3234-000, CP91-3235-000]

Take notice that Florida Gas Transmission Company, 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, and Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued in Docket No. CP89-555-000 and Docket No. CP86-240-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[4]

[4] These prior notice requests are not consolidated.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: November 18, 1991, in accordance with Standard Paragraph G at the end of this notice.

Appendix

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-3232-000, ST91-10464 (9-39-91)	Lake Apopka Natural Gas District (Shipper).	(1)	LA	FL	4-1-91 FTS-1, Firm	9-1-91.
CP91-3234-000 (9-30-91)	SJR Resources, Inc. (Marketer).	100,000 80,000 36,500,000	OH, WV, KY, PA, NY	OH	7-1-91, ITS Interruptible.	ST91-9857, 7-19-91.
CP91-3235-000 (9-30-91)	Belden & Blake Corporation (Marketer).	500 400 182,500	PA	PA	7-18-91, ITS, Interruptible.	ST91-9856, 7-22-91.

[1]

	Phase I	Phase II
Peak Day	3,065	3,065
Average Day	1,398	1,432
Annual Basis	510,116	522,827

8. National Fuel Gas Supply Corporation

[Docket No. CP91-3211-000]

Take notice that on September 27, 1991, National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP91-3211-000 an application pursuant to sections 7(b) and (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an increase in storage capacity at two of its underground natural gas storage fields and authorizing the replacement and abandonment of certain storage compressors, all as more fully set forth in the application which is on file with

the Commission and open to public inspection.

National proposes to increase the storage capacity at its storage fields located at Holland, New York and Bennington, New York by increasing the pressure under which gas is stored in those fields in phases over a five-year period. The maximum allowable operating pressure of the Holland field would be increased from 800 psig to 1,380 psig, and the maximum allowable operating pressure of the Bennington field would be increased from 700 psig to 1,060 psig, it is stated. National also proposes to drill several observation wells in each field to monitor the effects of the increased storage pressure. National also proposes to construct and operate 1440 compressor horsepower at its Porterville, New York, compressor station to replace four 40 years old 200 horsepower compressor units. National states that the additional compressor horsepower would be required to inject gas into the storage fields at the higher pressure. Natural further states that the reservoir pressure would be gradually increased over a five year period to the new maximum pressure. National estimates the total cost of the project to be $11,755,550. National proposes to finance this project with internally generated funds and/or interim short-term bank loans.

Comment date: October 24, 1991, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24424 Field 10-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ92-1-20-000 & TM92-3-20-000]

Algonquin Gas Transmission Co.; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1991.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on October 1, 1991, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed to be effective October 1, 1991

2 Rev Sheet No. 63

Proposed to be effective November 1, 1991

7 Rev Sheet No. 21
7 Rev Sheet No. 22
3 Rev Sheet No. 25
7 Rev Sheet No. 26
7 Rev Sheet No. 27
7 Rev Sheet No. 28
6 Rev Sheet No. 29

Algonquin states that the instant filing is an out of cycle revision of its Quarterly Purchased Gas Adjustment ("PGA") filed on August 14, 1991 in Docket No. TQ91-7-20-000. In that docket, Algonquin filed tariff sheets comprising its quarterly PGA to become effective September 1, 1991. Algonquin states that several events have occurred in the interim to make this out of cycle filing necessary. The first of these is that National Fuel Gas Supply Corporation filed its Quarterly PGA on August 30, 1991, to be effective October 1, 1991 in Docket Nos. TQ91-1-16-000 and TM92-1-16-000, raising its commodity rate from $1.4793 per MMBtu to $2.7280 per MMBtu. Texas Eastern Transmission Corporation ("Texas Eastern") filed its Quarterly PGA in Docket No. TQ92-1-17-000 on October 1, 1991 to be effective November 1, 1991, raising its CD-1 commodity rate from $2.4727 to 2.6676.

Algonquin also states that substantial increases in projected spot market prices for October and November make Texas Eastern's CD-1 gas preferable to spot purchases. As a result, both the volume mix and the projected costs underlying Algonquin's currently effective Quarterly PGA need to be revised.

Algonquin states that this filing also tracks the change in the 1991 Annual Charge Adjustment ("ACA") from all of Algonquin's suppliers.

Algonquin states that the proposed effective date for the revised Rate Schedule ATAP is October 1, 1991. The proposed effective date for the revised sales tariff sheets listed above is November 1, 1991.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24416 Filed 10-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-227-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 3, 1991.

Take notice that ANR Pipeline Company ("ANR"), on September 30, 1991 tendered for filing as part of Original Volume No. 1 of its FERC GAS Tariff, six copies each of the following tariff sheet:

Forty-Seventh Revised Sheet No. 18

ANR states that the above referenced tariff sheet is being filed to implement a requested limited waiver of Section 15 of ANR's FERC Gas Tariff, Original Volume No. 1 and the applicable provisions of the Commission's Regulations, to place into effect a Sales Demand Conversion Surcharge ("Conversion Surcharge") relative to a partial conversion on Viking Gas Transmission Company ("Viking"), one of ANR's interstate pipeline suppliers. The Conversion Surcharge is designed to recover from ANR's firm sales customers, via its Purchased Gas Adjustment mechanism, transportation reservation charges that ANR will incur relative to its conversion from sales to firm transportation service on Viking. ANR has requested that the Commission accept the tendered tariff sheet to become effective November 1, 1991.

ANR states that each of its Volume No. 1 customers and interested State Commissions have been apprised of this filing via U.S. Mail.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 N. Capitol Street, NE., Washington, DC 20426 by October 10, 1991, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24410 Filed 10-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-4-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 3, 1991.

Take notice that ANR Pipeline Company ("ANR"), on October 1, 1991 tendered for filing as part of its Original Volume Nos. 1, 1-A, 2 and 3 of its FERC Gas Tariff, six copies the tariff sheets as listed in Appendix A attached to the filing.

ANR states that the referenced tariff sheets are being submitted pursuant to Section 2.104 of the Commission's Regulations to implement partial recovery of approximately $5.1 million of additional buyout buydown costs, part by a fixed monthly charge applicable to ANR's sales customers and part by a volumetric buyout buydown surcharge of $0.0006 per dth applicable to all throughput. In particular, this filing is being made pursuant to Article II of the Stipulation and Agreement filed by ANR on February 12, 1991 in Docket Nos. RP91-33-000 and RP91-35-000, as approved by the Commission on March 1, 1991. ANR has requested that the Commission accept the tendered tariff sheets to become effective November 1, 1991. ANR states that it intends to commence billing of the proposed fixed monthly charges and volumetric surcharge in December, 1991 for November, 1991 business.

ANR states that all of its Volume Nos. 1, 1-A, 2 and 3 customers and interested State Commissions have been apprised of this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 N. Capitol Street, NE., Washington, DC 20426 by October 10, 1991, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24411 Filed 10-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-1-63-000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 3, 1991.

Take notice that on September 26, 1991 Carnegie Natural Gas Company ("Carnegie") tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Twenty-First Revised Sheet No. 8
Twenty-First Revised Sheet No. 9

Carnegie states that pursuant to § 154.308 of the Commission's regulations and the Commission's Order Nos. 483 and 483-A, it is proposing an Out-of-Cycle PGA to reflect significant rate changes in the cost of spot gas supplies available on and after October 1, 1991. The revised rates are proposed to become effective October 1, 1991, and reflect a $0.0650 per Dth increase in the commodity component of Carnegie's sales rates under Rate Schedules LVWS, LVIS, and CDS, as compared to Carnegie's last fully-supported PGA filing in Docket Nos. TA91-1-63-001, *et al.*

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, 385.211. All such protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection

Lois D. Cashell,

Secretary.

[FR Doc. 91-24408 Filed 10-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-7-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 3, 1991.

Take notice that CNG Transmission Corporation (CNG) on October 1, 1991, tendered for filing as part of its FERC

Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with a proposed effective date of November 1, 1991:

Thirteenth Revised Sheet No. 31
Alternate Thirteenth Revised Sheet No. 31
Seventh Revised Sheet No. 32
Eighth Revised Sheet No. 34
Alternate Eighth Revised Sheet No. 34
Fifth Revised Sheet No. 35
Fourth Revised Sheet No. 38

CNG states that the purpose of this filing is to enable CNG to recover 75 percent of $526,433 in take-or-pay costs paid to its producer suppliers, consistent with CNG's Settlement in Docket No. RP88–217, *et al.*, as approved by the Commission order on October 6, 1989.

CNG states that copies of the filing were served on CNG customers and interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24407 Filed 10–9–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ92–1–21–000 & TM92–4–21–000]

Columbia Gas Transmission Corp.; Proposed Changes In FERC Gas Tariff

October 4, 1991.

Take notice that Columbia Gas Transmission Corporation (Columbia) on October 1, 1991, tendered for filing the following proposed changes to its FERC Gas Tariff, First Revised Volume No. 1, to be effective November 1, 1991.

Fourth Revised Eleventh Revised Sheet No. 26
Third Revised Sheet No. 26.1
Fourth Revised Eleventh Revised Sheet No. 26A
Third Revised Sheet No. 26A.1
Fourth Revised Eleventh Revised Sheet No. 26B
Second Revised Sheet No. 26B.1
Fourth Revised Tenth Revised Sheet No. 26C
Fourth Revised First Revised Sheet No. 26D
Twelfth Revised Sheet No. 163

Columbia states that the sales rates set forth on Third Revised Sheet No. 26.1 reflect an overall decrease of 39.23 cents per Dth in the commodity rate and a decrease of $.060 per Dth in the demand rate. In addition, the transportation rates set forth on Fourth Revised Tenth Revised Sheet No. 26C reflect a decrease in the Fuel Charge component of 1.07 cents per Dth.

The purpose of the subject tariff sheets is to reflect the following:

(1) A Current Purchased Gas Cost Adjustment Applicable to sales Rate Schedules;

(2) A continuation of certain surcharges which were accepted by the Commission to be effective through April 30, 1992;

(3) A Transportation Fuel Charge Adjustment; and

(4) Transportation Cost Recovery Adjustment.

Columbia states that copies of the filing were served on Columbia's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24419 Filed 10–9–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–3–000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 3, 1991.

Take notice that Columbia Gas Transmission Corporation (Columbia) on October 1, 1991, tendered for filing proposed changes to the tariff sheets of its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2 listed on Appendix 1 attached to the filing, with a proposed effective date of November 1, 1991.

Columbia requests that the Commission suspend the tariff sheets for the maximum statutory period of five months and provide an effective date of April 1, 1992. Columbia requests the maximum suspension in order for the filing to comply with the moratorium on rate design and other changes establish in the July 29, 1989 Stipulation and Agreement approved by the Commission on October 19, 1989, in Columbia's Docket No. RP86–168–000.

Columbia states that the instant section 4(e) rate filing implements certain cost classification, cost allocation and rate design changes based upon the overall cost of service, throughput and demand determinants filed in Docket No. RP91–161–000, including a straight fixed variable (SFV) rate design and a market-based interruptible transportation service (ITS) rate during the winter.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24400 Filed 10–9–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–2–000]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

October 3, 1991.

Take notice that on October 1, 1991, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing revised changes to its FERC Gas Tariff, First Revised Volume No. 1, with a proposed effective date of November 1, 1991; however, Columbia Gulf has requested that the Commission suspend this tariff sheet for the maximum statutory period of five (5) months and provide for an effective date of April 1, 1992. The proposed tariff sheet is identified as Second Revised Fourth Revised Sheet No. 021.

Columbia Gulf states that the purpose of the filing is to implement a straight fixed-variable rate design based upon the overall cost of service, adjusted for gas cost in Columbia Gas Transmission Corporation's filing in Docket No. TQ92–1–21 filed on October 1, 1991, throughput and demand determinants filed in Docket No. RP91–160–000, including interruptible transportation service (ITS) rates based upon a one hundred percent (100%) load factor of the first transportation service (FTS) rates.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24401 Filed 10–9–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–5–000]

El Paso Natural Gas Co.; Rate Change Filing

October 3, 1991.

Take notice that on October 1, 1991, El Paso Natural Gas Company ("El Paso") gave notice, pursuant to section 4 of the Natural Gas Act and part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, of an adjustment to the weighted average cost of gas ("WACOG") rate for gas service rendered to sales customers served by El Paso's interstate gas transmission system under rate schedules affected by the WACOG price option. El Paso is tendering for filing and acceptance certain tariff sheets to become effective November 1, 1991.

El Paso states that it has tendered certain tariff sheets, which reflect a net increase of $0.2311 per dth for gas purchased at mainline receipt points [$0.2432 per dth for gas purchased at city gate delivery points) in the WACOG rate above such rate placed in effect on September 1, 1991 at Docket No. RP88–44–000, *et al.* The change in the WACOG rate attributable to the instant adjustment for which notice is given herein is applicable to the WACOG pricing option under Rate Schedules ABD–S, X–1, ABD–1 and PA–1 contained in El Paso's FERC Gas Tariff, Second Revised Volume No. 1 and to those special rate schedules in El Paso's Third Revised Volume No. 2 and Original Volume No. 2A Tariffs, which provide for rates that are keyed to and identical with the rate in effect from time to time under a designated rate schedule contained in said Second Revised Volume No. 1 Tariff.

El Paso respectfully requested that the tendered tariff sheets be accepted and permitted to become effective on November 1, 1991, which is thirty (30) days after the date of filing.

El Paso states that copies of the filing were served upon all interstate pipeline system transportation and sales customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24422 Filed 10–9–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ92–1–34–000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

October 4, 1991.

Take notice that Florida Gas Transmission Company (FGT) on October 1, 1991, tendered for filing to become part of its FERC Gas Tariff, the following tariff sheets to be effective November 1, 1991:

Fourth Revised Twentieth Revised Sheet No. 8
Second Revised Sheet No. 22
Third Revised Sheet No. 223
Second Revised Sheet No. 224
Third Revised Sheet No. 225
Third Revised Sheet No. 226
Fourth Revised Sheet No. 227
Third Revised Sheet No. 228
Third Revised Sheet No. 229
Third Revised Sheet No. 230
Second Revised Sheet No. 231
Fourth Revised Sheet No. 232

FGT states that Fourth Revised Twentieth Revised Sheet No. 8 is being filed in accordance with § 154.308 of the Commission's Regulations and pursuant to Section 15 of FGT's FERC Gas Tariff, Second Revised Volume No. 1 to reflect an increase in FGT's jurisdictional rates due to an increase in its average cost of gas purchased from that reflected in its Out-of-Cycle PGA filing, Docket No. TQ91–5–34–000, effective September 1, 1991. FGT also states that the remaining tariff sheets are being filed to update its Index of Entitlements.

FGT states that copies of the filing were mailed to all customers served under the rate schedule affected by the filing and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24420 Filed 10–9–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ92–2–4–000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

October 3, 1991.

Take notice that on September 30, 1991, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581–5039, tendered for filing with the Commission Seventh Revised Sixth Revised Sheet No. 21 in its FERC Gas Tariff, Second Revised Volume No. 1, containing changes in rates for effectiveness on October 1, 1991.

According to Granite State, it filed its regular quarterly purchased gas cost

adjustment on September 5, 1991, reflecting projected gas costs and sales for the fourth quarter of 1991. (Docket Nos. TQ92-1-4-000 and TM91-1-4-000) In that filing, Granite State further states, it projected purchasing approximately 70 percent of the gas for its system supply in the spot market at a cost of $1.74 per dth. In the interim since the regular quarterly filing, it is stated that the cost of its spot market purchases has risen to $2.15 per dth, an increase of $0.41 per dth. According to Granite State, the revised rates in the instant filing are based on the same level of projected purchases from the same suppliers and the same level of projected sales as in the regular quarterly filing; the only change from the prior filing is in the projected costs for spot market sales during the fourth quarter of 1991.

It is stated that the proposed rate changes are applicable to Granite State's jurisdictional services rendered to Bay State Gas Company and Northern Utilities, Inc. Granite State further states that copies of its filings were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24417 Filed 10-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-1-000]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 3, 1991.

Take notice that Northern Natural Gas Company (Northern) on October 1, 1991, tendered for filing as part of its FERC Gas Tariff the revised tariff sheets listed on appendix A attached to the filing, with a proposed effective date of November 1, 1991.

Northern states that the filing includes 1) adjustments to Northern's rates to provide for a rate decrease, and 2) other proposed tariff modifications.

Northern states that the primary reason for the filing of the revised tariff sheets is to adjust Northern's rates for its sales, transportation, deferred delivery, and gathering services.

Northern states that copies of the filing have been served on each customer and interested state commissions in accordance with the Commission's regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24404 Filed 10-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-2-59-000]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 4, 1991.

Take notice that Northern Natural Gas Company (Northern), on September 30, 1991 tendered for filing changes in its FERC Gas Tariff, Third Revised Volume No. 1 (Volume No. 1 Tariff) and Original Volume No. 2 (Volume No. 2 Tariff).

Northern is filing the revised tariff sheets to adjust its Base Average Gas Purchase Cost in accordance with the Quarterly PGA filing requirements codified by the Commission's Order Nos. 483 and 483-A. The instant filing reflects a Base Average Gas Purchase Cost of $1.8863 per MMBtu to be effective October 1 through December 31, 1991.

Northern states that copies of the filing were served on Northern's jurisdictional customers and interested rate commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24421 Filed 10-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-226-000]

Northwest Alaskan Pipeline Co.; Tariff Changes

October 3, 1991.

Take notice that on September 27, 1991, Northwest Alaskan Pipeline Company (Northwest Alaskan), tendered for filing the following tariff sheets to its FERC Gas Tariff Original Volume No. 2 with a proposed effective date of November 1, 1991:

Third Revised Sheet No. 114C
Third Revised Sheet No. 114D
Fifth Revised Sheet No. 123
Fourth Revised Sheet No. 173
Second Revised Sheet No. 173A
Substitute Fifth Revised Sheet No. 186A

Northwest Alaskan states that it is submitting these sheets to reflect change in the commodity charges for Canadian gas purchased by Northwest Alaskan from Pan-Alberta Gas Ltd. (Pan-Alberta) and resold to Northern Natural Gas Company (Northern) under Rate Schedule X-1.

Northwest Alaskan states that a copy of the filing is being served on Northwest Alaskan's customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24403 Filed 10–9–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ92–1–86–000]

Pacific Gas Transmission Co.; Change in Sales Rates Pursuant to Purchased Gas Adjustment

October 4, 1991.

Take notice that on October 1, 1991, Pacific Gas Transmission Company (PGT) submitted for filing pursuant to part 154 of the Federal Energy Regulatory Commission's (Commission) regulations a proposed change in rates applicable to service rendered under Rate Schedule PL–1, affected by and subject to Paragraph 21, "Purchased Gas Cost Adjustment" (PGA), of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. Such rates are proposed to become effective November 1, 1991.

PGT states that copies of the filing were served on PGT's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 11, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24423 Filed 10–9–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–225–000]

Pan-Alberta Gas (U.S.) Inc.; Tariff Changes

October 3, 1991.

Taken notice that on September 27, 1991, Pan-Alberta Gas (U.S.) Inc. (PAG–US), tendered for filing in the following tariff sheets to its FERC Gas Tariff, Original Volume No. 2 with a proposed effective date of November 1, 1991:

First Revised Sheet No. 100
First Revised Sheet No. 110
First Revised Sheet No. 117
Original Sheet No. 117A
First Revised Sheet No. 118

PAG–US states that it is submitting these sheets to reflect changes in the commodity rate and volume obligations for Canadian gas purchased from PAG–US by Northern Natural Gas Company (Northern) pursuant to PAG–US Rate Schedule X–1, as part of the Alaska Natural Gas Transportation System (ANGTS) prebuild project.

PAG–US states that copies of the filing is being served on Northern.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24402 Filed 10–9–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–230–000]

South Georgia Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 3, 1991.

Take notice that on September 30, 1991, South Georgia Natural Gas Company (South Georgia) tendered for filing the following additional sheet to its FERC Gas Tariff with a proposed effective date of September 30, 1991:

Original Sheet No. 4D

South Georgia states that the proposed tariff sheet is being filed to implement a proposal for the disposition, through deferred direct billing and offsetting refund crediting, of that portion of south Georgia's deferred account balance in Account No. 191 attributable to unrecovered gas costs for the period March 1, 1990 through December 31, 1990 which were caused by the retroactive restatement of its base tariff rates for that period pursuant to a Commission order dated July 16, 1990 in Docket No. RP89–225, *et al.*

South Georgia states that copies of the filing were mailed to all of South Georgia's jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24405 Filed 10–9–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–6–000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 3, 1991.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on October 1, 1991 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies each of the tariff sheets listed in appendix A of the filing.

Texas Eastern states that the purpose of this filing is to update Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1, to reflect new levels of service for some of Texas Eastern's customers under Rate Schedule CD–1 and to reflect changes in the currently effective Monthly Inventory Determinants due to the 1992 leap year.

Texas Eastern states that the proposed effective date of the tariff sheets listed on appendix A is November 1, 1991.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington,

DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24412 Filed 10-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-2-17-000 and 001]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 3, 1991.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on October 1, 1991 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the tariff sheets listed on appendix A of the filing.

The proposed effective date of these revised tariff sheets is November 1, 1991.

Texas Eastern states that the tariff sheets are being filed pursuant to section 23, Purchased Gas Cost Adjustment contained in the General Terms and Conditions of Texas Eastern's FERC Gas Tariff. This filing constitutes Texas Eastern's regular quarterly PGA filing to be effective November 1, 1991 pursuant to 18 CFR 154.308. In compliance with § 154.308 (b)(2) of the Commission's Regulations, a report containing detailed computations for the derivation of the current adjustment to be applied to Texas Eastern's effective rates is enclosed in the format as prescribed by FERC Form No. 542-PGA (Revised) and FERC's Notice of Criteria for Accepting Electronic PGA Filings dated April 12, 1991.

Texas Eastern states that the filing contains a primary and an alternate PGA proposal. The primary proposal includes the cost of gas purchased from Equitrans, Inc. under Rate Schedule PLS for which certification will be pending before the Commission. The alternate proposal does not include gas from Equitrans, Inc.

Texas Eastern states that the PGA changes proposed in this primary filing include a Demand current adjustment of $0.062/dth and a Commodity current adjustment of $0.1949/dth based upon the change in Texas Eastern's projected quarterly cost of purchased gas from Texas Eastern's August 1, 1991 quarterly filing in Docket No. TQ91-4-17.

The PGA changes proposed in the alternative PGA proposal include a Demand current adjustment of $(0.216)/dth and a Commodity current adjustment of $0.2002/dth based upon the change in Texas Eastern's projected quarterly cost of purchased gas from Texas Eastern's August 1, 1991 quarterly filing in Docket No. TQ91-4-17. The sole change in the alternate PGA proposal from the primary proposal is the elimination of the gas from Equitrans, Inc and the replacement with gas from other supply sources.

Texas Eastern states that copies of its filing have been served on all Authorized Purchasers of Natural Gas from Texas Eastern and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene of protest with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24418 Filed 10-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-8-000]

Transwestern Pipeline Co. Proposed Changes in FERC Gas Tariff

October 3, 1991.

Take notice that Transwestern Pipeline Company (Transwestern) on October 2, 1991, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with a proposed effective date of November 1, 1991:

90th Revised Sheet No. 5
Original Sheet No. 5D(v)
2nd Revised Sheet No. 5E(iii)
53rd Revised Sheet No. 6
16th Revised Sheet No. 37
10th Revised Sheet No. 89
Original Sheet No. 89A
10th Revised Sheet No. 90

Transwestern states that the above-referenced tariff sheets are being filed to modify its take-or-pay, buy-out and buy-down mechanism (TCR mechanism) in order to recover certain take-or-pay, buy-out, buy-down, and contract reformation costs (Transition Costs) which amounts it paid subsequent to the implementation date of its Gas Inventory Charge (GIC), October 1, 1989, and which do not qualify under the Litigation Exception provision of its tariff.

Transwestern states that copies of the filing were served on its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24409 Filed 10-9-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TO92-1-52-000 & TM92-1-52-001, TQ92-1-52-001]

Western Gas Interstate Co.; Proposed Changes in FERC Gas Tariff

October 3, 1991.

Take notice that on October 1, 1991, Western Gas Interstate Company ("Western"), pursuant to Section 4 of the Natural Gas Act, the Commission's regulations thereunder and Western's FERC Gas Tariff, tendered for filing proposed changes to its FERC Gas Tariff, tendered for filing proposed changes to its FERC Gas Tariff, Second Revised Volume No. 1. The proposed effective date for the tariff sheet is November 1, 1991.

Western states that its filing proposes changes to its rates in accordance with the terms of the Purchased Gas Adjustment Clause of its FERC Gas Tariff and to its ACA Charge.

Western further states that the proposed changes provide for: (1) An increase in the cost of purchased gas under its Rate Schedule CD–N of $.483812 per MMBtu; and (2) an increase in the cost of purchased gas under its Rate Schedule CD–S of $.22287 per MMBtu.

Western states that its filing reflects an Annual Charge Adjustment of $.0024.

Finally, Western states that copies of the filing were served upon Western's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24413 Filed 10–9–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ92–1–43–000 and TM92–2–43–000]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 3, 1991.

Take notice that Williams Natural Gas Company (WNG) on September 30, 1991 tendered for filing Fifth Revised Third Revised Sheet Nos. 6, 6A, and 9 to its FERC Gas Tariff, First Revised Volume No. 1.

WNG states that pursuant to the Purchased Gas Adjustment in Article 18 of its FERC Gas Tariff, it proposes a net reduction of $.0987 per Dth as measured against its quarterly PGA filing in Docket No. TQ91–5–43 which became effective August 1, 1991, and increases in transportation fuel rates and in gathering fuel rates resulting from an increase in purchase costs to be effective November 1, 1991.

WNG states that pursuant to Article 26 of its FERC Gas Tariff, the above referenced tariff sheets reflect a revised TOP Volumetric Surcharge for the period November 1, 1991 through January 31, 1992 of $.0395 per Dth.

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24414 Filed 10–9–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ92–1–49–000]

Williston Basin Interstate Pipeline Co., Compliance Filing

October 3, 1991.

Take notice that on September 30, 1991, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, tendered for filing as part of its FERC Gas Tariff the following revised tariff sheets:

First Revised Volume No. 1

Fourth Revised Thirty-fourth Revised Sheet No. 10

Original Volume No. 1-A

Fourth Revised Twenty-seventh Revised Sheet No. 11

Fourth Revised Thirty-third Revised Sheet No. 12

Second Revised Sixteenth Revised Sheet No. 97A

Original Volume No. 1-B

Fourth Revised Twenty-second Revised Sheet No. 10

Fourth Revised Twenty-second Revised Sheet No. 11

Original Volume No. 2

Fourth Revised Thirty-fifth Revised Sheet No. 10

Fourth Revised Twenty-eighth Revised Sheet No. 11B

The proposed effective date of the tariff sheets is November 1, 1991.

Williston Basin states that Fourth Revised Thirty-fourth Revised Sheet No. 10 (First Revised Volume No. 1) and Fourth Revised Thirty-fifth Revised Sheet No. 10 (Original Volume No. 2) reflect an increase in the Current Gas Cost Adjustment applicable to Rate Schedules G–1, SGS–1, E–1 and X–1 of 2.273 cents per dkt as compared to that contained in the Company's May 31, 1991 PGA filing in Docket No. TA91–1–49–000, which became effective August 1, 1991.

Williston Basin also states that Fourth Revised Twenty-seventh Revised Sheet No. 11 and Fourth Revised Thirty-third Revised Sheet No. 12 (Original Volume No. 1–A) and Fourth Revised Thirty-fifth Revised Sheet No. 10 and Fourth Revised Twenty-eighth Revised Sheet No. 11B (Original Volume No. 2), reflect a revised fuel used and lost and unaccounted for gas percentage of 3.101% applicable to certain transportation rate schedules.

Williston Basin further states that Fourth Revised Twenty-seventh Revised Sheet No. 11, Fourth Revised Thirty-third Revised Sheet No. 12 and Second Revised Sixteenth Revised Sheet No. 97A (Original Volume No. 1–A), Fourth Revised Twenty-second Revised Sheet Nos. 10 and 11 (Original Volume No. 1–B), Fourth Revised Thirty-fifth Revised Sheet No. 10 and Fourth Revised Twenty-eighth Revised Sheet No. 11B (Original Volume No. 2) reflect an increase of 1,180 cents per dkt in the fuel reimbursement charge component of the Company's relevant transportation rates as compared to that contained in the Company's May 31, 1991 filing in Docket No. TA91–1–49–000. Such increase in the fuel reimbursement charge is a result of the changes in Williston Basin's average cost of purchased gas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 10, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary

[FR Doc. 91–24415 Filed 10–9–91; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Research

University Research Instrumentation Program 1992; Program Solicitation Announcement

AGENCY: Office of Energy Research; Department of Energy.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce the availability of the University Research Instrumentation (URI) Program solicitation, and to inform potential applicants of the closing date and location for transmittal of applications for awards under this program. This program provides grants to selected colleges and universities so that they can purchase advanced equipment which will enhance their capability to conduct energy research. The catalog number is 81.077 (Catalog of Federal Domestic Assistance), University Research Instrumentation Program.

DATES: Applications may be delivered by hand, U.S. First Class Mail, or express mail and must be received by the Idaho Field Office no later than 4 p.m., local prevailing time, Monday, December 9, 1991.

ADDRESSES: To be eligible, the application must be received by the U.S. Department of Energy, Idaho Field Office, Contracts Management Division, 785 DOE Place, Idaho Falls, ID 83402, ATTN: Mrs. Linda Hallum.

FOR FURTHER TECHNICAL INFORMATION: Copies of the Program Solicitation may be obtained from Mr. Michael L. Wolfe, Program Manager, Office of University and Science Education, ER–80, Office of Energy Research, U.S. Department of Energy, 1000 Independence Avenue, Washington, DC 20585, (202) 586–5462.

SUPPLEMENTARY INFORMATION: The purpose of the University Research Instrumentation Program is to assist university and college scientists in strengthening their capabilities to conduct long-range research in specific energy research and development areas of direct interest to DOE through the acquisition of specialized research instrumentation. This program is consistent with, and part of, a government-wide effort to increase the availability of advanced research instrumentation in universities and colleges. For FY 1992, the appropriation recommended in the conference report for the Energy and Water Development appropriations Bill is $4.998 million. DOE invites all qualified colleges and universities to write for a copy of its University Research Instrumentation Program solicitation, DOE–ER–0184/7, Notice of Program Announcement Number DE–PS05–92ER79054. Selection for award under this solicitation is subject to the availability of funds. Applications must be prepared and submitted in accordance with the instructions and forms included in the program solitation.

In FY 1992 applications will only be accepted in the designated principal research areas. The URI program's funds will be concerned primarily with capital equipment costing $100,000 or more needed for on-campus research in one of five specific energy research areas (listed below in alphabetical order). In order to indicate the potential breadth of the research in each area, a number of examples of related research topics are given. Within each topic area no preference is given to any of the examples.

A. Biological and Environmental Research

1. Health Effects and Life Sciences. Research on the cellular and molecular effects of radiation and energy related chemicals to provide data needed to predict long-term health effects and research that provides fundamental information on the macromolecular structure and function of living systems.

a. Improved and innovative methods for detecting and quantitating DNA damage and repair;

b. Improved quantitation of the health and environmental effects of radon exposure;

c. More efficient and cost effective approaches to mapping and sequencing the human genome;

d. High resolution analysis of the structure and function of biological macromolecules.

2. Environmental Processes and Effects: a. Subsurface microbiology and factors affecting mobilization and immobilization of chemicals in soils and ground water systems, including new technologies to characterize microbes and the groundwater systems within which they grow; b. determination of the movement and fate of carbon, nutrients, and contaminants introduced along the ocean margins; c. development of fundamental integrated ecological studies in terrestrial systems that will contribute to understanding response functions of global and regional research activities.

3. Atmospheric and Climate Research: a. Measure and control systems for experimental research on the biological effects of CO_2 and climate variables; instrumentation to produce and measure trace materials (e.g., C_{11} isotope) for real-time studies of carbon fixation and metabolism within plants; b. ground based remote sensing instruments such as: Radio Acoustical Sounder (RASS) for temperature profiles, Differential Absorption Lidar (DIAL) and Raman Lidars for water vapor profiles, Doppler Wind Systems and High Resolution Interferometers Sounder (HIS) for solar and infrared spectral measurements, and other remote sensing instrument technology capable of identify and profiling specific atmospheric constituents including aerosols.

B. Chemical Sciences

Equipment needs to augment research in specific areas of the Chemical Sciences include fundamental studies related to chemical reactivity, transformations and conversion. Studies of the chemistry of fossil resources, particularly the characterization and transformation of coal, are critical to new or existing concepts of energy production and storage.

1. Chemical Sciences: a. Dynamics and kinetics of high-temperature chemical reactions, reaction mechanisms of complex hydrocarbons, and hazardous byproducts; b. surface chemistry studies including the chemistry of adsorbates, surface compositions, and studies of molecules at the solid-gas interface; c. organic and organometallic molecules used in separation processes, including solvent extraction; d. correlation effects which accompany multielectron transfer and excitation in laser-assisted atomic ion collisions, atomic processes in intense magnetic and electric fields.

2. Coal Reaction Chemistry. a. Fundamental understanding of the chemistry and kinetics of coal mineral matter. Composition, formation, and transformation of ash in coal utilization processes. Removal and separation of mineral matter from process streams Post process reactivity and transport of ash components.

b. Fundamental research of the chemistry, kinetics, and mechanisms of catalytic reactions of coal and coal char. Use of catalysts to control product slates, remove pollutants, upgrade products, and reduce the severity of reactions. Fundamental studies of the chemistry of coprocessing (coal/petroleum) reactions. Investigation of the structure reactivity, function, and role of supported metal complexes to the catalytic mechanisms

c. Research on advance fuel cell concepts, including reactants, electrolytes, catalysts/enzymes and useful coproducts.

d. Fundamental research on reactions to product products and by products from coal and coal char; the separation

and production of hydrogen is of particular interest,

e. Fundamental research of biochemical reactions of coal and coal derived products. Use of aerobic or anaerobic organisms to convert coal to useful products or to separate and remove contaminants. Methods and techniques to speed the rates of biological reactions. Studies of biological reactions under different conditions of temperature, pressure and concentrations; the use of enzymes and biocatalysts to enhance coal conversion. The use of biological methods to remove heteroatoms and their compounds. Development of sensors to monitor biological reactions, products and contaminants.

3. High Temperature Phenomena Related to Fossil Energy. a. Fundamental research on the influence of high temperature (>1000 Deg F) on the chemistry and kinetics of coal utilization and conversion processes. Studies of the formation and vaporization of alkalies and determination of their state at specific gasifier and combustor conditions of temperature and pressure. Research on the high temperature effects of fluidity, sintering, coalescence and reactions of the coal mineral matter, variations between gas and particle temperatures in a coal gasifier due to heats of reaction, decomposition, vaporization, and sublimation.

b. Hot Gas Cleanup. Innovative techniques and novel concepts to remove particulates/pollutants at high temperature and pressures; techniques to measure the concentration of pollutants and to control flow at these temperatures.

c. Fundamental research on the high temperature reactions relevant to coal-based magnetohydrodynamics (MHD); gas phase chemistry, slag chemistry, mobility of conductive species in liquid slag, and boundary layers in the nozzle, channel, and diffuser of an MHD system.

C. High Energy Physics University Infrastructure

Experimental Particle Physics: Experiments to elucidate the origins and nature of matter and of the natural forces that have forged our physical universe. The program will support improvement in the university infrastructure in tooling and fabrication capabilities, mechanical design, electronic design, testing, and fabrication. The infrastructure improvements are for university programs which participate in the development and construction of detectors for experiments in particle physics.

Preference will be given to applications for equipment useful to the following fields of high energy physics research. Examples of equipment items or systems suitable for applications include: a. Computer-aided mechanical design systems modern computer controlled machinery, precision laser cutting machinery, precision automated measuring machines, clean room facilities; b. computer-aided electronics design and fabrication, printed circuit board fabrication facilities, advanced high speed oscilloscopes and electronic testing hardware; c. mechanical, chemical and optical facilities for the development of new particle detector media; d. silicon chip binding equipment; e. beta-ray scanners for detector development.

D. Materials Sciences

Equipment, apparatus, instrumentation and facilities for controlled synthesis and processing of advanced materials including structural ceramics; structural ceramic matrix composites; polymers; photovoltaic semiconductors; structural Intermetallic compounds; ceramic, polymeric, and intermetallic superconductors; magnetic materials; surfaces of controlled microstructure and microchemistry; and adhesive bonds or welds between either similar or dissimilar kinds of materials.

1. Synthesis of controlled ceramic fiber, whisker, or powder of micron or submicron dimensions with reduced and controlled levels of impurity and foreign particulate contamination and in compliance with relevant health, environment, and safety concerns.

2. Reaction processes for the production of research laboratory quantities of controlled composition and purity materials with appropriate concern for the control of reaction temperature, pressure, and chemical environment.

3. Hydrothermal and other forms of pressure-assisted reaction synthesis, biomimetic reactions, atomic vapor resonant ionization processes (to achieve very high purity), electrochemical synthesis, polymer synthesis, colloidal synthesis, ceramic precursor synthesis, cluster, and nanophase synthesis.

4. Various "assisted" vapor reaction and deposition processes such as MBE, MOCVD, sputtering, etc., and including laser, plasma, microwave, particle beam, photon or other methods that may promote synthesis or process reactions that would not otherwise occur, or permit reactions to occur at lower temperatures.

5. Processing issues including processing material in bulk form with the objective of achieving a microstructure that gives desired properties in the bulk form. Subtopics that are included are high pressure (-GPa regime) reaction, self-propagating and self-organizing synthesis of consolidated products, hot isostatic pressing, and various "assisted" forms of consolidation including, but not necessarily limited to, RF, microwave, plasma, and various static and/or dynamic applied fields that are capable of achieving the densification of composite or multiphasic ensembles, or lowering the reacting temperature and time required to achieve full densification, and of providing preferred orientation of non-isotropic bulk materials.

6. Other appropriate topics include sheet metal fabrication and forming under multiaxial deforming forces, cross-linking and surface modification fabrication routes in polymers, welding and joining of both similar as well as dissimilar materials (e.g., joining a metal to ceramic), and near-net-shape forming and shaping processes.

E. Mechanistic Plant and Microbial Research

1. *Basic Plant Sciences:* Research devoted to understanding the fundamental cellular and molecular mechanisms of plant conversion of solar energy into chemical energy. This would include studies on growth and development, as well as other physiological processes that determine plant productivity as renewable resources (biomass).

2. *Fermentation Microbiology.* a. examination of the various basic biochemical processes involved in the broad spectrum of metabolic, both anaerobic and aerobic, transformations carried out by nonmedical microorganisms; b. research on the physiology, biochemistry and molecular biology of both monocultures and complex consortia; c. organisms occupying unique, exotic niches with the potential to be exploited in future energy-related biotechnologies.

While the equipment requested may be equally suitable and may be used for research on other energy-related topics, the need for the instrument(s) must be justified (and the application will be reviewed) in terms of its value and ability to enhance the institution's capabilities in the principal designated energy-related research area specified on the cover sheet. The instrument's utility in advancing other areas of scientific or technical research is of

peripheral interest during the application's review procedure.

Participation in the URI Program is limited to U.S. universities and colleges that currently have active, ongoing DOE-funded research support (including subcontracts) totalling at least $150,000 in value in the specific area for which the equipment is requested during the past two fiscal years (October 1, 1989 to September 30, 1991).

DOE is establishing this limitation to ensure that the instrumentation acquired with these grants will significantly expand the research capability of institutions which have already demonstrated the capability to perform long-range energy research. The Office of University and Science Education believes that restricting eligibility to institutions which have performed $150,000 of DOE supported research over a two-year period will limit eligibility in this grant program to those institutions which, because of their existing commitment to energy research, are best able to incorporate advanced instrumentation into their research programs. Special consideration will be given to Historically Black Colleges and Universities (HBCUs) and other traditional minority institutions which meet the institutional eligibility criteria, and have significant research capabilities in the selected research area. DOE will consider only requests for larger instruments, costing about $100,000 or more, which are required to advance research in the designated research area. Smaller research instruments (less than $100,000 each) will not be eligible for consideration in this program. General purpose computing equipment is also not eligible under this program. However, laboratory computers and associated peripherals dedicated for use directly with the instrument(s) requested (or for use with existing research instrument(s) in the selected area may be considered. Computer equipment for theoretical research will be eligible under this program, but will be given secondary consideration relative to instrumentation for experimental research.

For more detailed background information about the URI solicitation, please refer to the following related documents: (1) DOE request for public comment on the URI program, June 7, 1983 (48 FR 26328–26331), (2) October 18, 1983, DOE changes to the program (48 FR 48277–48281); and (3) December 15, 1983, DOE program solicitation announcement (48 FR 55774–55775). The authority for the University Research Instrumentation Program is contained in section 31 (a) and (b) of the Atomic Energy Act of 1954 (42 U.S.C. 2051) and section 209 of the Department of Energy Organization Act (42 U.S.C. 7139).

Issued in Washington, DC on October 7, 1991.

D.D. Mayhew,

Deputy Director, Office of Management, Office of Energy Research.

[FR Doc. 91–24488 Filed 10–9–91; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

Meetings; Amendment; Invitation for Public Views and Comments on the Conduct of the 1992 Clean Coal Technology Solicitation

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Amendment to notice of meetings; Invitation for Public Views and Comments on the Conduct of the 1992 Clean Coal Technology Solicitation.

SUMMARY: On September 23, 1991, at 56 FR 47953, the United States Department of Energy, Office of Fossil Energy, published in the **Federal Register** a notice of meetings; Invitation for Public Views and Comments on the Conduct of the 1992 Clean Coal Solicitation. The present notice amends that notice of Meetings in order to quote more precisely certain statutory language.

FOR FURTHER INFORMATION CONTACT: Jean L. Lerch, Fossil Energy, FE–20 GTN, U.S. Department of Energy, Washington, DC 20585, (301) 353–3965.

SUPPLEMENTARY INFORMATION:

Introduction: On page 56 FR 47953 (right column, paragraph 1), the text should read:

* * * request for proposals "* * * shall be issued not later than March 1, 1992 * * *" and further, that "* * * project proposals resulting from (Clean Coal Technology) solicitations shall be selected not later than eight months after the date of the general request for proposals."

Proposed Outline for the Anticipated Solicitation: On page 56 FR 47954 (right column, paragraph 2) should read:

The PON will be consistent with the general guidance set forth in the Act, which provides among other things, that "* * * funds [for Clean Coal Technology] in this or any other Appropriations Act shall be expended only in accordance with the provisions governing the use of such funds contained under (the Department of Energy) head in this or any other Appropriations Act."

Public Law No. 101–512.

Linda G. Stuntz,

Acting Assistant Secretary, Fossil Energy.

[FR Doc. 91–24487 Filed 10–9–91; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRG 4019–9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3051 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OPM) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 12, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Pesticide Product Registration Maintenance Fee (EPA ICR No.: 1214.02; OMB No.: 2070–0100). This is an extension of the expiration date of a currently approved collection.

Abstract: The 1988 amendments to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) require pesticide registrants to pay an annual fee for each pesticide registered with EPA. To aid in the collection of these fees, EPA will send a maintenance fee filing form (and instructions) to each registrant. The registrants must complete this form and return it to the Agency.

Burden Statement: The burden for this collection of information is estimated to average 0.96 hour per response. This estimate includes the time needed to review instructions, gather the data needed, and review the collection of information.

Respondents: Pesticide Product Registrants.

Estimated No. of Respondents: 2,224.

Estimated No. of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2,138 hours.

Frquency of Collection: Annually.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM 223Y), 401 M Street, SW., Washington, DC 20460,

and

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: October 4, 1991.

Paul Lapsley, Director,

Regulatory Management Division.

[FR Doc. 91–24489 Filed 10–9–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL 4019–8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before November 12, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Hazardous Waste Generator Standards (EPA No. 820). This ICR is a renewal of an approved collection (OMB No. 2050–0035).

Abstract: The informational requirements for hazardous waste generators include pre-transport (separate for large and small quantity generators), export, and recordkeeping requirements. Pre-transport requirements for large quantity generators (LQGs) include documenting certain personnel information, such as job description and training, for positions dealing with hazardous wastes; preparing and maintaining contingency plans; complying with emergency reporting requirements; and recording when local firehouses decline to become more familiar with the generator's facility and its waste. Also, LQGs using tank systems for accumulating hazardous waste may need to submit to one or more of the following: a no-free-liquids demonstration, existing tank system assessments, an equivalent containment exemption, a variance from secondary containment requirements, annual leak tests and inspections, an exemption from the 24-hour leak detection requirement, new tank system assessments and certifications, an exemption from the 24-hour waste removal requirement, release notifications and reports, and major repair certifications. Pre-transport requirements for small quantity generators (SQGs) include notification in the event of a fire, explosion, or other release threatening human health outside the facility or when the generator has knowledge that a spill has reached surface water.

Export requirements include: Providing notification of intent to export hazardous waste, renotification if conditions are altered, filing an annual report summarizing information on all wastes exported, filing exception reports where applicable, maintaining copies of relevant documents for a period of three years, and under certain circumstances providing additional information, as requested by the receiving country. The Agency uses the information as an enforcement tool, and to ensure that all hazardous waste generated in the United States is managed in a manner protective of human health and the environment.

All generators are required to keep records of test results, waste analyses, or other records documenting that a waste is hazardous for at least three years.

Burden Statement: The estimated average public burden per response for this collection is about 16 hours for large quantity generator pre-transport requirements, 2 hours for small quantity generator pre-transport requirements, and 4 hours for generator export requirements. This estimate includes all aspects of the information collection. The estimated annual recordkeeping burden per respondent is .10 hours.

Respondents: Hazardous Waste Generators.

Estimated Number of Respondents: 223,350.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 48,914 hours.

Frequency of Collection: Annually and on occasion.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street SW., Washington, DC 20460,

and

Ron Minsk, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20503.

Dated: October 4, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91–24490 Filed 10–9–91; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59916; FRL 3998–5]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 4 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 91–236, 91–237, October 8, 1991.

Y 91–238, October 13, 1991.

Y 91–239, October 15, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information

extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE–G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 91–236

Manufacturer. Confidential.

Chemical. (G) Polyester polymer.

Use/Production. (S) Polyether for powder coating. Prod. range: Confidential.

Y 91–237

Manufacturer. Confidential.

Chemical. (G) Vinyl acrylic copolymer.

Use/Production. (G) Binder ingredient in nonwoven articles. Prod. range: Confidential.

Y 91–238

Manufacturer. Eastman Kodak Company.

Chemical. (G) Polyvinyl acetal.

Use/Production. (G) Contained use in an article. Prod. range: 1,000–4,000 kg/yr.

Y 91–239

Manufacturer. Confidential.

Chemical. (G) Silicone/SBR copolymer.

Use/Production. (G) Component for release agent. Prod. range: Confidential.

Dated: October 4, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91–24492 Filed 10–9–91; 8:45 am]

BILLING CODE 6560–50–F

[OPTS–59915; FRL 3949–2]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 30 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 91–201, 91–202, 91–203, September 5, 1991.

Y 91–207, September 16, 1991.

Y 91–208, 91–209, 91–210, 91–211, 91–212, September 17, 1991.

Y 91–213, September 18, 1991.

Y 91–215, 91–216, September 26, 1991.

Y 91–217, September 25, 1991.

Y 91–218, September 26, 1991.

Y 91–219, 91–220, 91–221, 91–222, 91–223, 91–224, 91–225, 91–226, 91–227, 91–228, 91–229, October 1, 1991.

Y 91–231, October 2, 1991.

Y 91–232, 91–233, October 6, 1991.

Y 91–234, October 7, 1991.

Y 91–235, October 3, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE–G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 91–201

Manufacturer. Eastman Chemical Company

Chemical. (S) 1,4-benzenedicarboxylic acid, dimethylester and 1,2-ethanediol and 1,4-cyclohexanedimethanol and ethanol, 2,2'-oxybis-.

Use/Production. (S) Extrusion blow molding. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 3,200 mg/kg species (rat). Acute dermal toxicity: LD50 > 1,000 mg/kg species (guinea pig). Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit). Skin sensitization: negative species (guinea pig).

Y 91–202

Manufacturer. Eastman Chemical Company

Chemical. (S) 1,4-benzenedicarboxylic acid and 1,2-ethanediol and 1,4-cyclohexanedimethanol and ethanol, 2,2'-oxybis-.

Use/Production. (S) Extrusion blow molding. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 3,200 mg/kg species (rat). Acute dermal toxicity: LD50 > 1,000 mg/kg species (guinea pig). Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit). Skin sensitization: negative species (guinea pig).

Y 91–203

Manufacturer. Eastman Chemical Company

Chemical. (S) 1,4-benzenedicarboxylic acid, dimethylester, polymer with 1,4-cyclohexanedimethanol and carbonic acid, polymer with 4,4'-(1-methylethylidene)bis(phenol); carbonic acid, polymer with 4,4'-(-1-methylehylidene)bis(phenol).

Use/Production. (S) Injection molding plastic. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 12.8 g/kg species (rat). Acute dermal toxicity: LD50 > 10 ml/kg species (guinea pig). Skin irritation: negligible species (rabbit). Skin sensitization: negative species (guinea pig).

Y 91–207

Manufacturer. Confidential.

Chemical. (G) Acrylic polymer.

Use/Production. (G) Paint. Prod. range: Confidential.

Y 91–208

Importer. Takeda U.S.A, Inc.

Chemical. (G) Acrylates copolymer.

Use/Import. (G) Modifier for plastics. Import range: Confidential.

Y 91–209

Importer. Takeda U.S.A., Inc.

Chemical. (G) Acrylates copolymer.

Use/Import. (G) Modifier for plastics. Prod. range: Confidential.

Y 91–210

Importer. Takeda U.S.A., Inc.

Chemical. (G) Butadiene and acrylates copolymer.

Use/Import. (G) Modifier for plastics. Prod. range: Confidential.

Y 91–211

Importer. Takeda U.S.A., Inc.

Chemical. (G) Acrylates copolymer.

Use/Import. (G) Modifier for plastics. Prod. range: Confidential.

Y 91–212

Importer. Takeda U.S.A., Inc.

Chemical. (G) Acrylates copolymer.

Use/Import. (G) Modifier for plastics. Import range: Confidential.

Y 91-213

Manufacturer. Confidential.
Chemical. (G) Rosin-modified phenolic resin.
Use/Production. (G) Modifier for plastics. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit).

Y 91-215

Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer, ammonia salt.
Use/Production. (S) Component of solid film prelube. Prod. range: 6,100–40,900 kg/yr.

Y 91-216

Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer, amine salt.
Use/Production. (S) Component of solid film prelube. Prod. range: 6,100–40,900 kg/yr.

Y 91-217

Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer, mixed ammonia amine salt.
Use/Production. (S) Component of solid film prelube. Prod. range: 6,100–40,900 kg/yr.

Y 91-218

Manufacturer. Confidential.
Chemical. (G) Olin copolymer.
Use/Production. (G) Destructive use. Prod. range: Confidential.

Y 91-219

Manufacturer. Confidential.
Chemical. (G) Poly-alpha-alkene.
Use/Production. (G) Pipeline additive. Prod. range: Confidential.
Toxicity Data. Acute dermal toxicity: LD50 > 8 g/kg species (rabbit). Inhalation toxicity: LC50 > 1.64 mg/l species (rat). Eye irritation: slight species (rabbit). Skin irritation: strong species (rabbit).

Y 91-220

Manufacturer. Rhone-Poulenc, Inc.
Chemical. (G) UV curable silicone resin.
Use/Production. (G) Coating. Prod. range: Confidential.

Y 91-221

Manufacturer. Confidential.
Chemical. (G) Aqueous acrylic polymer.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Y 91-222

Manufacturer. Confidential.
Chemical. (G) Aqueous acrylic polymer.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Y 91-223

Manufacturer. Confidential.
Chemical. (G) Aqueous acrylic polymer.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Y 91-224

Manufacturer. Confidential.
Chemical. (G) Aqueous acrylic polymer.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Y 91-225

Manufacturer. Confidential.
Chemical. (G) Aqueous acrylic polymer.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Y 91-226

Manufacturer. Confidential.
Chemical. (G) Aqueous acrylic polymer.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Y 91-227

Manufacturer. Confidential.
Chemical. (G) Aqueous acrylic polymer.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Y 91-228

Manufacturer. Confidential.
Chemical. (G) Aqueous acrylic polymer.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

Y 91-229

Manufacturer. Confidential.
Chemical. (G) Aromatic aliphatic polyester.
Use/Production. (S) Hot melt adhesive. Prod. range: Confidential.

Y 91-231

Manufacturer. Confidential.
Chemical. (G) Carboxylated acrylic copolymer.
Use/Production. (G) Pressure sensitive adhesive. Prod. range: Confidential.

Y 91-232

Manufacturer. The P.D. George Company.
Chemical. (G) Modified polyestetr.
Use/Production. (S) Wire enamel. Prod. range: 109,200 kg/yr.

Y 91-233

Manufacturer. C.J. Osborn Div. of Suvar Corporation.
Chemical. (G) Coconut based polyester.
Use/Production. (S) Pigmented coatings. Prod. range: Confidential.

Y 91-234

Importer. Hi-Tech Color, Inc.
Chemical. (G) Aliphatic polyurethane.
Use/Import. (S) Vehicle of paints for car interiors. Import range: 300–1,000 kg/yr.

Y 91-235

Importer. Hi-Tech Color, Inc.
Chemical. (G) Alkylsilicon copolymerized aliphatic polyurethane.
Use/Import. (S) Vehicle of paint for car interior. Import range: 1,000–3,000 kg/yr.

Dated: October 4, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-24493 Filed 10-9-91; 8:45 am]
BILLING CODE 6560-50-F

[OPTS-51771; FRL 3949-3]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 78 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 91-1333, 91-1334, November 18, 1991.

P 91-1335, 91-1336, 91-1337, 91-1338, 91-1339, November 19, 1991.

P 91-1340, 91-1341, 91-1342, 91-1343, 91-1344, 91-1345, November 20, 1991.

P 91-1346, November 23, 1991.

P 91-1347, 91-1348, 91-1349, 91-1350, 91-1351, 91-1352, 91-1353, 91-1354, 91-1355, November 24, 1991.

P 91-1356, 91-1357, 91-1358, 91-1359, 91-1360, 91-1361, 91-1362, November 25, 1991.

P 91-1363, November 26, 1991.

P 91-1365, 91-1366, 91-1367, 91-1368, 91-1369, November 27, 1991.

P 91–1370, 91–1371, 91–1372, 91–1373, 91–1374, 91–1375 91–1376, December 1, 1991.

P 91–1377, 91–1378, 91–1379, 91–1380, 91–1381, 91–1382, December 2, 1991.

P 91–1383, 91–1384, 91–1385, December 3, 1991.

P 91–1386, 91–1387, December 4, 1991.

P 91–1388, 91–1389, December 9, 1991.

P 91–1390, 91–1391, December 8, 1991.

P 91–1392, December 3, 1991.

P 91–1393, 91–1394, December 8, 1991.

P 91–1395, 91–1396, 91–1397, 91–1398, 91–1399, 91–1400, December 9, 1991.

P 91–1401, 91–1402, 91–1403, December 10, 1991.

P 91–1404, 91–1405, 91–1406, December 11, 1991.

P 91–1407, 91–1408, 91–1409, 91–1410, 91–1411, December 14, 1991.

Written comments by:

P 91–1333, 91–1334, October 19, 1991.

P 91–1335, 91–1336, 91–1337, 91–1338, 91–1339, October 20, 1991.

P 91–1340, 91–1341, 91–1342, 91–1343, 91–1344, 91–1345, October 21, 1991.

P 91–1346, October 24, 1991.

P 91–1347, 91–1348, 91–1349, 91–1350, 91–1351, 91–1352, 91–1353, 91–1354, 91–1355, October 25, 1991.

P 91–1356, 91–1357, 91–1358, 91–1359, 91–1360, 91–1361, 91–1362, October 26, 1991.

P 91–1363, October 27, 1991.

P 91–1365, 91–1366, 91–1367, 91–1368, 91–1369, October 28, 1991.

P 91–1370, 91–1371, 91–1372, 91–1373, 91–1374, 91–1375, 91–1376, November 1, 1991.

P 91–1377, 91–1378, 91–1379, 91–1380, 91–1381, 91–1382, November 2, 1991.

P 91–1383, 91–1384, 91–1385, November 3, 1991.

P 91–1386, 91–1387, November 4, 1991.

P 91–1388, 91–1389, November 9, 1991.

P 91–1390, 91–1391, November 8, 1991.

P 91–1392, November 3, 1991.

P 91–1393, 91–1394, November 8, 1991.

P 91–1395, 91–1396, 91–1397, 91–1398, 91–1399, 91–1400, November 9, 1991.

P 91–1401, 91–1402, 91–1403, November 10, 1991.

P 91–1404, 91–1405, 91–1406, November 11, 1991.

P 91–1407, 91–1408, 91–1409, 91–1410, 91–1411, November 14, 1991.

ADDRESSES: Written comments, identified by the document control number "(OPTS–51771)" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., rm. L–100, Washington, DC, 20460, (202) 260–3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, rm. E–545, 401 M St., SW., Washington, DC, 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE–G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 91–1333

Importer. Deep South Chemical, Inc.

Chemical. (S) Succinoglucan biopolymer.

Use/Import. (S) Aqueous viscosifier for oil field application. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Static acute toxicity: time LC50 96H > 1,000 mg/l species (rainbow trout). Mutagenicity: negative. Skin sensitization: positive species (guinea pig).

P 91–1334

Importer. Confidential.

Chemical. (G) Polyvinylsulfone.

Use/Import. (G) Cement additive. Import range: Confidential.

P 91–1335

Importer. Confidential.

Chemical. (G) Diester of aryl acid and alkyl alcohol.

Use/Import. (G) Lubricant base stock. Import range: Confidential.

Toxicity Data. Static acute toxicity: time EC50 91H > 1,000 mg/l species (rainbow trout).

P 91–1336

Importer. Confidential.

Chemical. (G) Hydroxy-terminated polyurethane.

Use/Import. (G) Cross-linking agent. Import range: Confidential.

P 91–1337

Importer. Confidential.

Chemical. (G) Isocyanate-terminated polyurethane.

Use/Import. (G) Cross-linking agent. Import range: Confidential.

P 91–1338

Manufacturer. Monomer-Polymer & Dajac Laboratories.

Chemical. (S) Tertiary butyl methacrylate (2-propenoic acid, 2-methyl 1,1-dimethylethyl ester).

Use/Production. (S) Component for paint binder. Prod. range: Confidential.

P 91–1339

Manufacturer. Confidential.

Chemical. (G) Vanadium compound.

Use/Production. (G) Agricultural use. Prod. range: Confidential.

Toxicity Data. Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit).

P 91–1340

Manufacturer. E.I. Du Pont De Nemours and Company.

Chemical. (G) 1,3,5-triazin-2-amine,4-substituted-*N,N*-dimethyl-6-(2,2,2-trifluoroethoxy)-.

Use/Production. (S) Industrial intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 2,310 mg/kg species (rat). Eye irritation: slight species (rabbit). Mutagenicity: negative.

P 91–1341

Manufacturer. E.I. Du Pont De Nemours and Company.

Chemical. (G) 1,3,5-triazin-2-amine,4-subtituted-*N,N*-dimethyl-6-(2,2,2-trifluoroethoxy)-.

Use/Production. (S) Industrial intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1,000 mg/kg species (rat). Eye irritation: moderate species (rabbit). Mutagenicity: negative.

P 91–1342

Manufacturer. E.I. Du Pont De Nemours and Company.

Chemical. (G) 1,3,5,-triazin-2-amine,4-substituted-*N,N*-dimethyl-6-(2,2,2-trifluoroethoxy)-.

Use/Production. (S) Industrial intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 670 mg/kg species (rat). Eye irritation: slight species (rabbit). Mutagenicity: negative.

P 91–1343

Manufacturer. E.I. Du Pont De Nemours and Company.

Chemical. (G) 1,3,5,-triazin-2-amine, 4-substituted-*N,N,*-dimethyl-6-(2,2,2-trifluoromethyl)-.

Use/Production. (S) Industrial intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: ALD > 11,000 mg/kg species (rat). Eye irritation: slight species (rabbit). Mutagenicity: negative.

P 91-1344

Importer. Gray Valley Products, Inc.
Chemical. (G) Polyamide.
Use/Import. (S) Production of printing inks. Import range: 10,000–20,000 kg/yr.

P 91-1345

Importer. Gray Valley Products, Inc.
Chemical. (G) Alkyd resin.
Use/Import. (S) Component of paint. Import range: 10,000–50,000 kg/yr.

P 91-1346

Manufacturer. Oxid, Inc.
Chemical. (S) Ethanol, 2,2'-(Hexylimino)di-.
Use/Production. (S) Corrosion inhibitor in brake fluids. Prod. range: 33,000–50,000 kg/yr.

P 91-1347

Manufacturer. Hoechst Celanese Corporation.
Chemical. (G) Quaternary ammonium perfluoroalkyl carboxylate.
Use/Production. (G) Electronic chemical. Prod. range: Confidential.

P 91-1348

Manufacturer. Confidential.
Chemical. (G) Polyether silane.
Use/Production. (G) Silane modified polyether agent. Prod. range: Confidential.

P 91-1349

Manufacturer. Confidential.
Chemical. (G) Polyester.
Use/Production. (S) Binder for printing ink. Prod. range: Confidential.

P 91-1350

Manufacturer. Confidential.
Chemical. (G) Polyester.
Use/Production. (S) Binder for printing ink. Prod. range: Confidential.

P 91-1351

Manufacturer. Confidential.
Chemical. (G) Polyester.
Use/Production. (S) Binder for printing ink. Prod. range: Confidential.

P 91-1352

Manufacturer. Confidential.
Chemical. (G) Polyester.
Use/Production. (S) Binder for printing ink. Prod. range: Confidential.

P 91-1353

Manufacturer. Confidential.
Chemical. (G) Polyester.
Use/Production. (S) Binder for printing ink. Prod. range: Confidential.

P 91-1354

Manufacturer. Confidential.
Chemical. (G) Disalkanol dialkyl ammonium sulfonate (salt).
Use/Production. (G) Contained use polyurethane intermediate. Prod. range: Confidential.

P 91-1355

Manufacturer. Confidential.
Chemical. (G) Polyurethane.
Use/Production. (G) Plastics additive. Prod. range: Confidential.

P 91-1356

Manufacturer. Rohm and Haas Company.
Chemical. (G) Vinyl acetate/acrylic copolymer.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.
Toxicity Data. Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit). Skin sensitization: negative species (guinea pig).

P 91-1357

Manufacturer. Confidential.
Chemical. (G) Fluoride compound.
Use/Production. (G) Chemical for metal treatment. Prod. range: Confidential.

P 91-1358

Manufacturer. Confidential.
Chemical. (G) Fluoride compound.
Use/Production. (G) Chemical for metal treatment. Prod. range: Confidential.

P 91-1359

Manufacturer. Confidential.
Chemical. (G) Fluoride compound.
Use/Production. (G) Chemical for metal treatment. Prod. range: Confidential.

P 91-1360

Manufacturer. Confidential.
Chemical. (G) Fluoride compound.
Use/Production. (G) Chemical for metal treatment. Prod. range: Confidential.

P 91-1361

Manufacturer. Confidential.
Chemical. (S) 1,5-Dioxaspiro (5.5) undecane-3,3-dicarboxylic acid, bis (1,2,2,6,6-pentamethyl-4-piperidinyl)ester.
Use/Production. (G) Light stabilizer. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2 g/kg species (rat). Eye irritation: strong species (rabbit). Skin irritation: negligible species (rabbit).

P 91-1362

Manufacturer. Confidential.
Chemical. (G) Vinyl copolymer.
Use/Production. (G) Industrial coating resin intermediate. Prod. range: Confidential.

P 91-1363

Manufacturer. Engelhard Corporation.
Chemical. (G) Calcium monoazo red pigment.
Use/Production. (S) Organic pigment in inks and coatings. Prod. range: 50,000–90,000 kg/yr.

P 91-1365

Manufacturer. Confidential.
Chemical. (G) Polyethylene wax telomer.
Use/Production. (G) Color concentrate additive. Prod. range: Confidential.

P 91-1366

Manufacturer. Eastman Chemical Company.
Chemical. (S) (1,1'-Biphenyl)-2,5-diol, diacetate.
Use/Production. (S) Polymer intermediate. Prod. range: Confidential.

P 91-1367

Importer. Confidential.
Chemical. (G) Spiro (2*H*-indole-2,3'-(3*H*)naphth(2,1-b)(1,4) oxazine),1,3-dihydro-1,3,3-trimethyl-6'-(1-piperidinyl).
Use/Import. (G) Open, non-disbursive. Import range: Confidential.
Toxicity Data. Mutagenicity: negative.

P 91-1368

Importer. Confidential.
Chemical. (G) Spiro (2*H*-indole-2,3-(3*H*)naphth(2,1-b)(1,4)oxazine),6'-(2,3-dihydro-1*H*-indol-*YL*)-1,3-dihydro-1,3,3-trimethyl.
Use/Import. (G) Open, non-disbursive. Import range: Confidential.
Toxicity Data. Mutagenicity: negative.

P 91-1369

Importer. Confidential.
Chemical. (G) 3*H*-Naphtho (2,1-*b*)pyran,3,3-diphenyl-.
Use/Import. (G) Open, non-disbursive. Import range: Confidential.
Toxicity Data. Mutagenicity: negative.

P 91-1370

Manufacturer. Confidential.
Chemical. (G) Polyester polyurethane acrylate oligomer.
Use/Production. (S) Modifier for radiation curing coatings, inks, adhesives. Prod. range: Confidential.

P 91-1371

Manufacturer. Confidential.
Chemical. (G) Hydroxyalkylurea.
Use/Production. (G) Water soluble polyol for coatings. Prod. range: Confidential.

P 91-1372

Importer. Confidential.

Chemical. (G) Polyoxy alkylene glycol.

Use/Import. (G) Lubricant. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Skin irritation: strong species (rabbit). Skin sensitization: positive species (mouse).

P 91-1373

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer, ammonia salt.

Use/Production. (S) Component of solid film prelube. Prod. range: 6,100–40,900 kg/yr.

P 91-1374

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer, amine salt.

Use/Production. (S) Component of solid film prelube. Prod. range: 6,100–40,900 kg/yr.

P 91-1375

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer, mixed ammonia amine salt.

Use/Production. (S) Component of solid film prelube. Prod. range: 6,100–40,900 kg/yr.

P 91-1376

Manufacturer. Confidential.

Chemical. (G) Reaction products of diisocyanate, polyol and glycol ether.

Use/Production. (G) Component of coating. Prod. range: 1,000,000–2,000,000 kg/yr.

P 91-1377

Manufacturer. Shell Oil Company.

Chemical. (S) Polymer of 1,3-isoprene, hydrogenated coupled with divinyl benzene and containing antioxidants and 2,5-furandione.

Use/Production. (S) Impact modifier for engineering thermoplastic. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2 g/kg species (rat). Skin irritation: negligible species (rabbit).

P 91-1378

Importer. BASF Corporation.

Chemical. (G) Pyridine derivative.

Use/Import. (G) Comonomer used preparation of resin formulations. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,200 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 91-1379

Importer. Goldschmidt Chemical Corporation.

Chemical. (G) Quaternaric polydimethylsiloxane.

Use/Import. (G) Open, nondispersive. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: slight species (rabbit).

P 91-1380

Manufacturer. Confidential.

Chemical. (G) Ethylene vinyl acetate copolymer.

Use/Production. (G) Textile finishing chemical. Prod. range: Confidential.

P 91-1381

Manufacturer. Confidential.

Chemical. (G) Quaternary ammonium salt.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Skin sensitization: negative species (guinea pig).

P 91-1382

Manufacturer. Confidential.

Chemical. (S) Poly(oxy(methyl-1,2-ethanediyl))alpha-phenyl,omega-hydroxy.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,830 species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit).

P 91-1383

Manufacturer. Confidential.

Chemical. (G) Adipic acid, polyethylene glycol, terephthalic acid copolymer.

Use/Production. (G) Textile preparation/finishing aid. Prod. range: Confidential.

P 91-1384

Manufacturer. Confidential.

Chemical. (G) Sulfonated fatty acid ester salt.

Use/Production. (G) Additive used in cleaning formulation. Prod. range: Confidential.

P 91-1385

Manufacturer. Eastman Chemical Program.

Chemical. (S) 1,4-benzenedicarboxylic acid, dimethylene.

Use/Production. (S) Injection molding plastic. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 12.8 g/kg species (rat). Acute dermal toxicity: LD50 > 10 ml/kg species (guinea pig). Eye irritation: none species (rabbit). Skin sensitization: negative species (guinea pig).

P 91-1386

Importer. Confidential.

Chemical. (G) *N,N*-dialkyl-*M*-aminophenol.

Use/Import. (S) Intermediate for thermosensitive dyestuff. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Skin irritation: moderate species (rabbit). Mutagenicity: negative.

P 91-1387

Manufacturer. Confidential.

Chemical. (G) Olefin copolymer.

Use/Production. (G) Destructive use. Prod. range: Confidential.

P 91-1388

Manufacturer. Shell Oil Company.

Chemical. (G) Modified bitumen.

Use/Production. (S) Paving bitumen. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Acute dermal toxicity: LD50 > 2 g/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: moderate species (rabbit). Skin sensitization: negative species (guinea pig).

P 91-1389

Importer. Bostik, Inc.

Chemical. (G) Polyurethane.

Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 91-1390

Manufacturer. Confidential.

Chemical. (G) Acrylic copolymer polyacreylate.

Use/Production. (G) Non-woven fabric ingredient/coatings ingredient. Prod. range: Confidential.

P 91-1391

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Amine salt of modified alkyd resin.

Use/Production. (G) Alkyd resin for coatings. Prod. range: Confidential.

P 91-1392

Manufacturer. E.I. Du Pont De Nemours & Company.

Chemical. (G) Ethane, pentafluoro.

Use/Production. (S) Refrigerant. Prod. range: Confidential.

Toxicity Data. Inhalation toxicity: LC50 > 5,000 ppm species (rat). Mutagenicity: negative.

P 91-1393

Manufacturer. Confidential.

Chemical. (G) Silicones-imid block copolymer.

Use/Production. (G) Electronics. Prod. range: Confidential.

P 91-1394

Importer. Akzo-Lanchem.

Chemical. (G) Unsaturated urethane propylic.

Use/Import. (S) Resin used to manufacture industrial coatings. Import range: Confidential.

P 91-1395

Manufacturer. Confidential.

Chemical. (G) (Penta-substituted phenyl)anthraquinone sulfonic acid.

Use/Production. (S) Intermediate in textile dye manufacture. Prod. range: Confidential.

P 91-1396

Manufacturer. Ciba-Geigy Corporation.

Chemical. (S) Hexanoic acid, 6,6'6"-(1,3,5-triazine-2,4,6-triyltrimino)tris-, tripotassium salt.

Use/Production. (S) Corrosion inhibitor. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Static acute toxicity: time LC50 96H>1,000 ppm species (zebra fish). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit).

P 91-1397

Manufacturer. Confidential.

Chemical. (G) Polyorganophosphazine.

Use/Production. (G) Polymer for production of flame-resistant foams. Prod. range: 1,000–20,000 mg/kg.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Skin irritation: negligible species (rabbit). Skin sensitization: negative species (guinea pig).

P 91-1398

Manufacturer. Ciba-Geigy Corporation.

Chemical. (S) Hexanoic acid, 6,6',6"-(1,3,5-triazine-2,4,6-triyltrimino)tris-, trisodium salt.

Use/Production. (S) Corrosion inhibitor. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Static acute toxicity: time LC50 96H>1,000 ppm species (zebra fish). Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit).

P 91-1399

Manufacturer. Confidential.

Chemical. (G) Neopentaindimine modified bisphenol *A* dioxirane.

Use/Production. (G) Destructive use. Prod. range: Confidential.

P 91-1400

Manufacturer. Confidential.

Chemical. (G) (Bis cyclohexanemethaneamine, 5 amino-1,3,3 trimethyl)polyhydroxeyether.

Use/Production. (G) Epoxy hardener. Prod. range: Confidential.

P 91-1401

Manufacturer. Eastman Chemical Company.

Chemical. (G) Substituted alpha-aminoanthraquinone.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 91-1402

Manufacturer. Eastman Chemical Company.

Chemical. (G) Halogenated anthrapyridoner.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 91-1403

Manufacturer. Eastman Chemical Company.

Chemical. (G) Substituted aminoanthrapyridone.

Use/Production. (S) Polymer intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: strong species (rabbit). Skin irritation: slight species (guinea pig).

P 91-1404

Manufacturer. Confidential.

Chemical. (G) Naphthyl polyoxyethane.

Use/Production. (G) Photographic chemical. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Mutagenicity: negative.

P 91-1405

Manufacturer. Texaco Chemical Company.

Chemical. (G) Polyisobutenyl succinimide.

Use/Production. (S) Lube additive for engine oils. Prod. range: Confidential.

P 91-1406

Manufacturer. Texaco Chemial Company.

Chemical. (G) Polyisobutenyl succinimide.

Use/Production. (S) Lube additive for engine oils. Prod. range: Confidential.

P 91-1407

Manufacturer. Akzo Coatings Inc.

Chemical. (G) Rosin fumaric acid, modified substituted phenols and formaldehyde, esters of glycerine and sorbitol polymer.

Use/Production. (S) Printing ink. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit).

P 91-1408

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Triethylamine-dimethylethanolamine salt os styrene-acrylatem copolymer.

Use/Production. (G) Industrial coatings. Prod. range: Confidential.

P 91-1409

Manufacturer. Confidential.

Chemical. (G) Heterocyclic aldehyde.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 5.7 ml/kg species (rat). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 91-1410

Manufacturer. The Dow Chemical Company.

Chemical. (G) Modifies styrene-acrylate polymer.

Use/Production. (S) Binder for paint. Prod. range: Confidential.

P 91-1411

Manufacturer. Confidential.

Chemical. (G) Rosin-modified phenolic resin.

Use/Production. (S) Printing ink binder. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 75 g/kg species (rat). Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit).

Dated: October 3, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-24494, Filed 10-9-91; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-51772; FRL 3998-4]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48

FR 21722). This notice announces receipt of 31 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 91-1416, December 14, 1991.

P 91-1417, December 21, 1991.

P 91-1418, 91-1419, 91-1420, 91-1421, 91-1422, 91-1423, December 16, 1991.

P 91-1425, 91-1426, December 17, 1991.

P 91-1427, December 22, 1991.

P 91-1428, December 18, 1991.

P 91-1429, 91-1430, 91-1431, 91-1432, December 21, 1991.

P 91-1433, 91-1434, 91-143", 91-1436, December 22, 1991.

P 91-1437, 91-1438, 91-1439, 91-1440, December 23, 1991.

P 91-1441, December 25, 1991.

P 91-1442, 91-1443, 91-1444, 91-1445, 91-1446, December 23, 1991.

P 91-1447, December 24, 1991.

Written comments by:

P 91-1416, November 14, 1991.

P 91-1417, November 21, 1991.

P 91-1418, 91-1419, 91-1420, 91-1421, 91-1422, 91-1423, November 16, 1991.

P 91-1425, 91-1426, November 17, 1991.

P 91-1427, November 22, 1991.

P 91-1428, November 18, 1991.

P 91-1429, 91-1430, 91-1431, 91-1432, November 21, 1991.

P 91-1433, 91-1434, 91-1435, 91-1436, November 22, 1991.

P 91-1437, 91-1438, 91-1439, 91-1440, November 23, 1991.

P 91-1441, November 25, 1991.

P 91-1442, 91-1443, 91-1444, 91-1445, 91-1446, November 23, 1991.

P 91-1447, November 24, 1991.

ADDRESSES: Written comments, identified by the document control number "(OPTS-51772)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., rm. L-100, Washington, DC, 20460, (202) 260-3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC, 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 91-1416

Manufacturer. Confidential.

Chemical. (G) Tall oil functions, vegetable oil, dibasic acids modified amide reaction product with a polyhydric alocohol.

Use/Production. (S) Resin binder for printing inks. Prod. range: Confidential.

P 91-1417

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Acrylic resin.

Use/Production. (G) Intermediate for two component industrial coatings. Prod. range: Confidential.

P 91-1418

Manufacturer. Confidential.

Chemical. (G) Modified hydrocarbon resin.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 91-1419

Manufacturer. Minnesota Mining & Manufacturing Co.(3M).

Chemical. (G) Fluorochemical polyurethane.

Use/Production. (S) Fabric treatment. Prod. range: Confidential.

P 91-1420

Manufacturer. Confidential.

Chemical. (G) Brominated epoxy resin.

Use/Production. (S) Epoxy resin for making resins for fiber reinforcement. Prod. range: Confidential.

P 91-1421

Manufacturer. Pierce & Stevens Corporation.

Chemical. (G) Amine capped polyether polyurethane.

Use/Production. (S) Water-based laminating adhesive. Prod. range: Confidential.

P 91-1422

Manufacturer. Confidential.

Chemical. (G) Polyacrylate urethane.

Use/Production. (G) Component of dispersively applied coating. Prod. range: 75,000-400,000 kg/yr.

P 91-1423

Manufacturer. Confidential.

Chemical. (G) Polyacrylate urethane.

Use/Production. (G) Component of dispersively applied coating. Prod. range: 75,000-400,000 kg/yr.

P 91-1425

Importer. Confidential.

Chemical. (G) Ring-nitrogen and fluorocarbon modified block polyether-polyester isocyanurate adduct.

Use/Import. (S) Coating additive used in paint formulation. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,066 mg/kg species (rat).

P 91-1426

Importer. Confidential.

Chemical. (G) Ring-nitrogen modified block polyether-polyester isocyanurate adduct.

Use/Import. (S) Coating additive used in paint formulation. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,097 mg/kg species (rat).

P 91-1427

Importer. Mektec Corporation.

Chemical. (G) 2-Propenoic acid 2-hydroxyethyl ester, polymer with fluoroalkyl ester and other monomers.

Use/Import. (S) Water and oil repellents for fiber. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Static acute toxicity: time LC50 96H>1,000 mg/l species (red killifish).

P 91-1428

Importer. Mektec Corporation.

Chemical. (G) Ethane, 1,1-dichloro-,polymer with 2-propenoic acid fluoroalkyl ester and other monomers.

Use/Import. (S) Water and oil repellents for fiber. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Static acute toxicity: time LC50 96H>1,000 mg/l species (red killifish).

P 91-1429

Importer. Hoechst Celanese.

Chemical. (S) 2,2-dimethoxy ethanal.

Use/Import. (S) Polymers synthesis. Import range: Confidential.

Toxicity Data. Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit).

P 91-1430

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Acrylic resin.

Use/Production. (G) Intermediate for coating. Prod. range: Confidential.

91-1431

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Acrylic-chlorendic anhydride ester.

Use/Production. (S) Two component coatings. Prod. range: Confidential.

P 91-1432

Manufacturer. Confidential.

Chemical. (G) Unsaturated polyester resin.

Use/Production. (G) Component of insulation. Prod. range: Confidential.

P 91-1433

Manufacturer. Confidential.

Chemical. (G) Silicone polyether copolymer.

Use/Production. (G) Surfactant. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Acute dermal toxicity: LD50 > 2 g/kg species (rabbit). Eye irritation: moderate species (rabbit). Skin irritation: negligible species (rabbit). Skin sensitization: positive.

P 91-1434

Manufacturer. The Dow Chemical Company.

Chemical. (G) Modified polystyrene.

Use/Production. (G) Polymer processing aid. Prod. range: Confidential.

P 91-1435

Manufacturer. The Dow Chemical Company.

Chemical. (G) Modified propoxylated glycerine polymer.

Use/Production. (S) Lubricant for refrigeration compressor. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 3,000–4,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit).

P 91-1436

Manufacturer. Confidential.

Chemical. (G) Cyano-ethylated dialkyl-polyamine.

Use/Production. (G) Softening of cellulose. Prod. range: Confidential.

P 91-1437

Importer. Dow Corning Corporation.

Chemical. (G) Aliphatic-aromatic carboxylate complex.

Use/Import. (S) Thickening agent for lubricants. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 7,500 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Skin sensitization: negative species (guinea pig).

P 91-1438

Manufacturer. Dow Corning Corporation.

Chemical. (G) Aliphatic-aromatic carboxylate complex.

Use/Import. (S) Thickening agent for lubricants. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 7,500 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Skin sensitization: negative species (guinea pig).

P 91-1439

Manufacturer. Confidential.

Chemical. (S) Dimethyl 2,6-naphthalene dicarboxylate; ethylene glycol.

Use/Production. (S) Polymer for manufacture of articles. Prod. range: Confidential.

P 91-1440

Manufacturer. Milliken & Company.

Chemical. (G) Substituted polyoxalkylene aniline.

Use/Production. (G) Colorant. Prod. range: Confidential.

P 91-1441

Manufacturer. Confidential.

Chemical. (G) Mixture of aromatic urethane with methacrylate endgroups and hydroxy terminated polyisocyanate.

Use/Production. (S) Oligomer for graphic arts printing plates. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Acute dermal toxicity: LD50 > 2 g/kg species (rabbit). Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit).

P 91-1442

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Epoxy ester.

Use/Production. (S) Industrial maintenance coatings. Prod. range: Confidential.

P 91-1443

Manufacturer. Anitec Image Corporation.

Chemical. (G) Benzoxazole-carbocyanine dye.

Use/Production. (S) Photographic sensitizing dye. Prod. range: 5–15 kg/yr.

P 91-1444

Importer. YKK AP America Inc.

Chemical. (G) Methyl methacrylate, polymer with 2-ethylhexyl methacrylate and other monomers.

Use/Import. (S) Paint vehicle. Import range: Confidential.

P 91-1445

Importer. YKK AP America Inc.

Chemical. (G) Methyl methacrylate, polymer with 2-ethylhexyl methacrylate and other monomers.

Use/Import. (S) Paint vehicle. Import range: Confidential.

P 91-1446

Importer. YKK AP America, Inc.

Chemical. (G) Methyl methacrylate, polymer with 2-ethylhexyl methacrylate and other monomers.

Use/Import. (S) Paint vehicle. Import range: Confidential.

P 91-1447

Manufacturer. Westvaco Corporation.

Chemical. (G) Alkali modified kraft lignin.

Use/Import. (S) Intermediate. Prod. range: Confidential.

Dated: October 3, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-24496 Filed 10-9-91; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for renewal of license of Station KLON(FM), Long Beach, California, and for a New Noncommercial FM station at Long Beach, California:

Applicant, City and state	File No.	MM docket No.
A. California State University, Long Beach Foundation; Long Beach, California.	BRED-900801XT	91-286
B. St. Ignatius Retreat Association; Long Beach, California.	BPED-901031ME	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each issue has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name above is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant

1. (See Appendix), B
2. Site Availability, B

3. Air Hazard, B
4. Environmental, A, B
5. Comparative-Noncommercial Educational FM, A, B
6. Ultimate, A, B

3. If there is any non standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an appendix to this Notice. A copy of the complete Hearing Designation Order in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, Downtown Copy Center, 1114 21st Street NW., Washington, DC 20036. (Telephone [202] 452–1422).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Non standardized issue

To determine whether St. Ignatius Retreat Association is a qualified educational organization as required by 47 CFR 73.503(a).

[FR Doc. 91–24500 Filed 10–9–91; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Establishment of Committees

Pursuant to section 501(j) of the Public Health Service Act, 42 U.S.C. 290aa(j), and the Federal Advisory Committee Act, 5 U.S.C. appendix 2, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), announces the establishment, effective September 30, 1991, of the following National Institute of Mental Health initial review committees:

Behavioral Neuroscience Review Committee
Biological Psychopathology Review Committee
Child/Adolescent Risk and Prevention Review Committee
Child Psychopathology and Treatment Review Committee
Clinical Neuroscience Review Committee
Clinical Psychopathology Review Committee
Cognitive Functional Neuroscience Review Committee
Emotion and Personality Review Committee
Epidemiology Review Committee
Health Behavior and Prevention Review Committee
Mental Disorders of Aging Review Committee
Mental Health AIDS and Immunology Review Committee
Mental Health Small Business Research Review Committee
Mental Health Special Projects Review Committee
Molecular, Cellular, and Developmental Neurobiology Review Committee
Neuropharmacology and Neurochemistry Review Committee
Perception and Cognition Review Committee
Psychobiology and Behavior Review Committee
Services Research Review Committee
Social and Group Processes Review Committee
Treatment Assessment Review Committee
Violence and Traumatic Stress Review Committee

The duration of these committees is continuing unless formally determined by the Administrator, ADAMHA, that termination would be in the best public interest.

Dated: October 7, 1991.

Frederick K. Goodwin,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 91–24503 Filed 10–9–91; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 91M–0368]

Richard Wolf Medical Instruments Corp.; Premarket Approval of Richard Wolf Piezolith E.P.L. Lithotripter, Model 2300

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Richard Wolf Medical Instruments Corp., . Rosemont, IL, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of the Richard Wolf Poiezolith E.P.L. Lithotripter, Model 2300. After reviewing the recommendation of the Gastroenterology-Urology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant by letter of September 9, 1991, of the approval of the application.

DATES: Petitions for administrative review by November 12, 1991.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marsha Melvin, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1194.

SUPPLEMENTARY INFORMATION: On September 7, 1989, Richard Wolf Medical Instruments Corp., 7046 Lyndon Ave., Rosemont, IL 60018, submitted to CDRH and application for premarket approval of the Richard Wolf Piezolith E.P.L. Lithotripter, Model 2300. The device is an extracorporeal shock wave lithotripter and is indicated for use in the fragmentation of upper urinary tract stones, i.e., renal calyceal stones and renal pelvis stones, which are 1.5 centimeter or less in greatest diameter.

On January 18, 1990, the Gastroenterology-Urology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 9, 1991, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (231 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be

used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 12, 1991, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 2, 1991.

Elizabeth D. Jacobson,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 91–24462 Filed 10–9–91; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HM, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (39 FR 1654, January 11, 1974, as amended most recently at 56 FR 23589, May 22, 1991) is amended to reflect changes in the National Institute on Drug Abuse (HMH), ADAMHA. These changes are to retitle the Office of Policy and External Affairs (HMH14) and revise the Office's functional statement.

Section HM–B, Organization and Functions, Alcohol, Drug Abuse, and Mental Health Administration (HM), is amended as follows:

Delete the title and functional statement for the Office of Policy and External Affairs (HMH14), and substitute the following title and functional statement:

Office of Science Policy, Education and Legislation (HMH14): (1) Provides leadership and direction in evaluating, coordinating, analyzing, and planning the Institute's scientific research programs; (2) represents the Institute's research programs to other Government agencies, the Congress, professional organizations, and the public; (3) evaluates, analyzes, and develops policy options in regard to the Institute's scientific and research activities; (4) provides scientific and policy leadership for the conduct of the Institute's international program; (5) prepares briefing materials and testimony for congressional hearings, and serves as liaison with Congress, the White House and other significant Federal and governmental agencies; (6) prepares reports, develops responses, and provides information on legislative efforts, responds to congressional inquires, and analyzes legislative proposals for the Director; (7) advises the Director on national drug abuse policy issues; (8) conducts relevant public affairs activities, writes scientific articles, deals with press, media and related efforts, collaborates with a variety of agencies both public and private to further knowledge and awareness of the Institute, its programs and findings; and (9) provides liaison with professional groups and private organizations, coordinates technical assistance to other governmental agencies, and coordinates analytic studies requested by other governmental agencies.

Dated: October 1, 1991.

Frederick K. Goodwin,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 91–24440 Filed 10–9–91; 8:45 am]

BILLING CODE 4160–20–M

National Institutes of Health

Division of Research Grants; Meeting of the Division of Research Grants Advisory Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Division of Research Grants Advisory Committee, November 18, 1991, Conference Room 10, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 8:30 a.m. to 4:30 p.m. The topics for the one-day meeting will include the Strategic Planning panel report on peer review, and a discussion of the focus and breadth of study sections. Attendance by the public will be limited to space available.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone (301) 496–7534, will furnish a summary of the meeting and a roster of the committee members.

Dr. Samuel Joseloff, Executive Secretary of the Committee, Westwood Building, room 449, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–7441, will provide substantive program information upon request.

Dated: October 3, 1991.

Samuel C. Rawlings,

Acting Committee Management Officer, NIH.

[FR Doc. 91–24351 Filed 10–4–91; 8:45 am]

BILLING CODE 4140–01–M

National Biotechnology Policy Board; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Biotechnology Policy Board on October 28, 1991. The meeting will be held at the National Institutes of Health (NIH), Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892, starting at approximately 9 a.m. to adjournment at approximately 5 p.m. The meeting will be open to the public.

The Board will discuss the various programs of the Federal government relating to biotechnology including the type of biotechnology-related research, research training, and career development activities. The Board may consider nonconfidential, privately-funded biotechnology activities including both basic and applied research and the development of commercial biotechnology-related industries and products.

In order to more accurately assess the state of the biotechnology effort in the U.S., the National Biotechnology Policy Board held two public hearings this fall. The hearings were for the expressed purpose of soliciting testimony from industry representatives and other interested parties. Members of the National Biotechnology Policy Board will form working groups at the meeting of October 28 to review testimony received during the hearings.

Attendance by the public will be limited to space available. Members of the public wishing to speak at this meeting may be given such opportunity at the discretion of the Chair.

Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, National Institutes of Health, Building 31, room 4B11, Bethesda, Maryland 20892, telephone (301) 496–9838, fax (301) 496–9839, will provide materials to be discussed at this meeting, roster of committee members, and substantive program information. A summary of the meeting will be available at a later date.

OMB's "Mandatory Information Requirements for Federal Assistance

Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which biotechnology could be included, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: October 3, 1991.

Samuel C. Rawlings,

Acting Committee Management Officer, NIH.

[FR Doc. 91-24352 Filed 10-9-91; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting on October 21-22, 1991, of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, at Prospect Associates, 1801 Rockville Pike, suite 500, Rockville, Maryland, which was published in the **Federal Register** on September 6, (56 FR 21333).

This committee was to have convened at 1 p.m. on October 21 but has been changed to 11 a.m. on October 21. The location is unchanged.

The meeting will be open to the public from 11 a.m. to 5 p.m. on October 21 and on October 22 from 8:30 a.m. to adjournment.

Dated: October 3, 1991.

Samuel C. Rawlings,

Acting Committee Management Officer, NIH.

[FR Doc. 91-24353 Filed 10-9-91; 8:45 am]

BILLING CODE 4140-01-M

National Library of Medicine; Meeting of the Planning Subcommittee of the Board of Regents of the National Library of Medicine

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Planning Subcommittee of the Board of Regents of the National Library of Medicine on October 31 and November 1, 1991, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland.

The entire meeting will be open to the public from 9 a.m. to approximately 5 p.m. on October 31, and from 9 a.m. to adjournment on November 1. The Subcommittee will discuss the Library's Toxicology Information Programs to determine the role of the National Library of Medicine in serving the information needs of those concerned with toxicology and the environment. Attendance by the public will be limited to space available.

Ms. Susan P. Buyer, Deputy Assistant Director for Planning and Evaluation of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, telephone 301-496-8834, will provide a summary of the meeting, a roster of subcommittee members, and substantive program information upon request.

Dated: October 2, 1991.

Samuel C. Rawlings,

Acting Committee Management Officer, NIH.

[FR Doc. 91-24354 Filed 10-9-91; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) on the Hayden Hill Mine Plan of Operation; Alturas Resource Area, CA

AGENCY: Department of the Interior, Bureau of Land Management, Susanville District Office, Susanville, California.

ACTION: Notice of availability of final environmental impact statement Environmental Impact Report (EIS/EIR) on the Hayden Hill Mine Plan of Operation; Alturas Resource Area, California.

SUMMARY: The Bureau of Land Management with the USDA-Forest Service as a cooperating agency, and Lassen County, California have prepared a final combined EIS/EIR for the proposed open pit gold mine operation located in the Hayden Hill area of the Alturas Resource Area, Susanville District, California. The lead Federal Agency is the Susanville District of the Bureau of Land Management. In accordance with regulations (40 CFR part 1503), the agency invites written comments on this final EIS.

Copies of the Final EIS/EIR have been distributed to known interested parties. Public reading copies are available at the Susanville, Alturas, Adin, and Beiber public libraries and at the following BLM offices.

- Bureau of Land Management, Susanville District Office, 705 Hall Street, Susanville, California 96130.
- Bureau of Land Management, Alturas Area Office, 608 West 12th Street, Alturas, California.
- Bureau of Land Management, California State Office, Public Information Section, 2800 Cottage Street, rm 2807, Sacramento, California.
- Bureau of Land Management, Redding Resource Area; 355 Hemstead Drive; Redding, California.

DATES: Comments on the Final EIS must be received by November 4, 1991.

ADDRESSES: Submit written comments and suggestions concerning the Final EIS to Joe Wagner, Acting Area Manager, Alturas Resource Area, 608 West 12th Street, Alturas, CA 96101.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement to Joe Wagner, Acting Area Manager, Alturas Resource Area, 608 West 12th Street, Alturas, CA 96101 or phone (916) 233-4666.

SUPPLEMENTARY INFORMATION: Lassen Gold Mining, Inc. (formerly Hayden Hill Operating Company), a subsidiary of Amax Gold Inc. has filed a plan of operation with the Bureau of Land Management, for an open pit gold mine in the Hayden Hill area of Lassen County, California. The project is located approximately 50 miles northwest of Susanville, California. Approximately 950 acres will be directly impacted. The Final EIS/EIR was prepared to meet both CEQA and NEPA requirements. The Final EIS/EIR addresses alternatives and their anticipated environmental impacts of an open pit, waste rock dump site, processing plants, heap leach systems, mill and tailing ponds, gold recovery processing plant and ancillary facilities and access roads. The project is located primarily on private and BLM administered lands. Access and some ancillary facilities will be on Forest Service administered lands in part.

The comment period on the Final environmental impact statement will be 30 days from the date the Environmental Protection Agency's notice of availability appears in the FR. To be most helpful, comments on the Final EIS/EIR should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed.

After the comment period ends on the Final EIS/EIR, the comments will be analyzed and considered by the agencies in preparing the Record of

Decision. The Record of Decision will be signed after November 4, 1991.

Robert J. Sherve,

Acting, District Manager.

[FR Doc. 91-24453 Filed 10-9-91; 8:45 am]

BILLING CODE 4310-40-M

[AZ-040-01-4320-02]

Meeting for the Safford District Grazing Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Land Management (BLM), Safford District announces a forthcoming meeting of the Safford District Advisory Grazing Advisory Board.

DATES: Friday, November 8, 1991, 9 a.m.

ADDRESSES: BLM Office, 425 E. 4th St., Safford, Arizona 85546.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Public Law 92-463. The agenda for the meeting will include:

1. Grazing Fees.
2. Proposed Range Improvement Projects for Fiscal Year 1992.
3. Requests for Advisory Board Funds.
4. BLM Management Update.
5. Business from the Floor.
6. Range Program Strategy Field Trip.

The meeting will be open to the public. Interested persons may make oral statements to the Board. A written copy of the oral statement may be required to be provided at the conclusion of the presentation. Written statements may also be filed for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager by 4:15 p.m., Thursday, November 7, 1991, at 425 E. 4th St., Safford, AZ 85546.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

At the conclusion of the meeting, Board members will depart via BLM provided vehicles for the Van Gausing Grazing Allotment Number 51090. There will be a discussion on the possibility of developing an On the Ground Public Rangeland Education Program.

It is expected the Board members will return to Safford by 4 p.m.

Dated: October 2, 1991.

Ray A. Brady,

District Manager.

[FR Doc. 91-24454 Filed 10-9-91; 8:45 am]

BILLING CODE 4310-32-M

California Desert District; Desert Tortoise Research Natural Area and Area of Critical Environmental Concern: Restrictions on Dogs and Bicycles

AGENCY: Bureau of Land Management, Interior.

ACTION: Implementation of two actions from the Desert Tortoise Research Natural Area Management Plan.

SUMMARY: The Desert Tortoise Research Natural Area (DTNA) and Area of Critical Environmental Concern (ACEC) was established to protect habitat with the highest known densities of desert tortoises. The Notice for the implementation of the DTNA Management Plan was published in July of 1989. A number of actions were presented in that Notice. The two additional actions proposed in this Notice are the closure of the DTNA to dogs (except seeing eye dogs) and the prohibition of riding bicycles on hiking trails within the DTNA. The authorities for the management plan are 43 CFR 8200.0-1, 8223.0-1, 8223.0-5, 8223.0-6, 8223.1, 8340, 8341, 8342, 8343, 8351, 8364, and 8365, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, the Sikes Act of 1974, and 43 CFR Public Land Order 5694. The area affected by these actions is the DTNA. The DTNA Management Plan was developed following the guidelines established for the area in the California Desert Conservation Area Plan of 1980.

EFFECTIVE DATE: Immediately.

ADDRESSES: Send inquiries to Area Manager, Ridgecrest Resource Area, 300 S. Richmond Road, Ridgecrest, California 93555. The DTNA Management Plan with public comments will be available at the above address from 7:30 a.m. to 4 p.m. on regular working days. For further information contact Robert Parker at the above address or (619) 375-7125.

Plan Actions: Dogs will not be allowed within the boundaries of the DTNA (except for seeing eye dogs). This will pertain to dogs both on and off leashes. The boundaries of the DTNA are easily identified by a woven wire fence and signs. Second, it will be prohibited for bicycles to be ridden on foot trails or elsewhere within the DTNA. These trails are located in the vicinity of the Interpretive Center at the DTNA. Bicycle riding in the DTNA will only be allowed on the access road into the Interpretive Center parking lot.

Any person who violates or fails to comply with these regulations as governed by 43 CFR parts 8340, 8351, 8364, and 8365, may be subject to prosecution pursuant to appropriate laws and regulations. Such punishment may be a fine of not more than $1,000 or imprisonment for not longer than 12 months or both.

FOR FURTHER INFORMATION, CONTACT; Gerald E. Hillier, District Manager, Bureau of Land Management, 6221 Box Springs Blvd., Riverside, CA 92507-0714, (714) 653-2146.

Dated: September 19, 1991.

Gerald E. Hillier,

District Manager.

[FR Doc. 91-24386 Filed 10-9-91; 8:45 am]

BILLING CODE 4310-40-M

[NM-940-02-4214-12; NMNM 16204 and NMNM 0554544]

Termination of Recreation and Public Purposes Classifications and Order Providing for Opening of Land; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates recreation and public purposes classifications NMNM 16204, in its entirety, and NMNM 0554544 in part. The lands will be opened to the public land laws generally, including the mining laws. The lands have been and remain open to the mineral leasing laws.

EFFECTIVE DATE: November 12, 1991.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87504-1449, 505-988-6071.

SUPPLEMENTARY INFORMATION:

1. Pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended, (43 U.S.C. 869 et seq.), and the regulations contained in 43 CFR 2461.5 (c)(2), recreation and public purposes classification NMNM 16204 is hereby terminated in its entirety, NMNM 0554544 is hereby terminated in part, and the segregations for the following described lands are hereby terminated:

New Mexico Principal Meridian

T. 1 N., R. 12 W.,
Sec. 19, lot 3, N½NE¼SW¼, SE¼NE¼SW¼, and N½SE¼;
Sec. 20, N½S½.
T. 3 S., R. 6 W.,

Sec. 3, NW¼SW¼;
T. 4 S., R. 15 W.,
Sec. 26, SW¼.
The areas described aggregate 510.19 acres in Socorro and Catron Counties.

The classifications no longer serve a needed purpose as to the lands described above, and are hereby terminated.

2. At 9 a.m. on November 12, 1991, the lands will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on November 12, 1991, considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on November 12, 1991, the lands will be opened to location and entry under the United States mining laws. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 2, 1991.

Monte G. Jordan,
Associate State Director.

[FR Doc. 91-24395 Filed 10-9-91; 8:45 am]
BILLING CODE 4310-FB-M

[NV-930-02-4212-18]

Realty Action; Sale of Public Lands in Clark County, NV

Public Law 96-586, enacted December 23, 1980, authorizes and directs the sale of certain public lands in and around Las Vegas, Nevada. The following described lands have been determined to be suitable for sale utilizing competitive procedures, at not less than fair market value. The lands will not be offered for sale until 60 days after publication of this notice in the **Federal Register**.

Parcel No.	Serial No.	Legal description	Acres
		T. 21 S., R. 60 E.,	
		Section 13	
91-03	N-54792	NW¼SW¼S W½NW¼	2.5
91-04	N-54793	SW¼SW¼S W½NW¼	2.5
91-05	N-54794	NW¼NW¼N W½SW¼	2.5
91-06	N-54795	NW¼SE¼N E½SW¼	2.5
91-07	N-54796	SW¼SE¼N E½SW¼	2.5
		Section 14	
91-08	N-52993	*W½SE¼N E½SW¼	5.0
91-09	N-36754	*W½NE¼S E½SW¼	5.0
		Section 17	
91-10	N-43689	E½SE¼N E¼NW¼	5.0
91-11	N-54800	W½SW¼N W¼NE¼	5.0
91-12	N-54801	E½SW¼N W¼NE¼	5.0
91-14	N-54803	W½NW¼S E¼NE¼	5.0
91-15	N-54804	W½NE¼S E¼NE¼	5.0
91-16	N-54805	W½SW¼S E¼NE¼	5.0
91-17	N-54306	E½SW¼S E¼NE¼	5.0
91-18	N-54807	E½NE¼N E¼SE¼	5.0
91-19	N-54808	W½NW¼N W¼SW¼	5.0
91-20	N-54809	E½NW¼N W¼SW¼	5.0
		Section 21	
91-21	N-54810	W½SE¼N W¼NW¼	5.0
		Section 24	
91-22	N-54811	SE½SE¼NW¼	10.0
		Section 28	
91-23	N-54812	E½SW¼N E¼SE¼	5.0
91-24	N-54813	W½SE¼N E¼SE¼	5.0
91-25	N-54814	E½SE¼N E¼SE¼	5.0

These parcels, situated in the Las Vegas Valley, have potential for urban-suburban, commercial and industrial development. Transfer of this land from Federal ownership will facilitate local land use planning and enhance its compatibility with adjoining private land uses. All or portions of the subject land herein described will be offered for sale initially at a public auction in Las Vegas on December 11, 1991. The sale will be conducted using a combination sealed bid/oral auction. Sealed bids will be accepted at the Las Vegas District Office until 4:15 p.m. on Tuesday, December 10, 1991. No bid will be accepted for less than the appraised price, and bids for a parcel must include all lands in the parcel.

The highest qualified sealed bid on each parcel will determine the starting point for the oral bidding conducted the day of the sale. Oral bidding will be open to everyone. More detailed procedures will be outlined in the sale brochure, which will be available after November 1, 1991, at the Las Vegas District Office. The parcels not sold through the initial auction will be offered the third Wednesday of each month, using sealed bid procedures, to be outlined in the sale brochure.

Conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interests being offered for conveyance have no known mineral value. A bid will constitute an application for conveyance of those mineral interests offered on the parcel. The declared high bidder will be required to deposit 15% of the full bid price and a $50.00 nonreturnable filing fee for conveyance of the mineral interests immediately at the sale. Failure to deposit these sums will result in disqualification as the high bidder. The authorized officer shall then determine whether to accept the next highest bid, withdraw the lands from market, or reoffer them at a later date.

General terms and conditions of the sale are:

1. The land will be sold subject to all valid existing rights such as power transmission and telephone line easements and federally issued oil and gas leases.

2. The land will be sold subject to reservation for streets, roads, flood control and public utilities, both existing and proposed, in accordance with Clark County and the City of Las Vegas plans.

3. All land that is sold will be subject to applicable Clark County and City of Las Vegas ordinances.

4. Any development and proposed development of a parcel affected by the 100-year flood plain shall be subject to review and regulations by Clark County Department of Public Works. Flood Control Division for flood control and storm water management.

5. All parcels sold will be subject to compliance with Clark County's Habitat Conservation Plan regarding the desert tortoise.

6. The United States shall reserve to itself all minerals of known value on all parcels being offered: Together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which

will be incorporated in the patent document, is available for review at the Las Vegas District Office, 4765 W. Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126.

7. The United States reserves to itself a right-of-way for ditches and canals, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

Adjoining landowners have no preference rights. Only U.S. citizens and legally chartered U.S. Corporations are eligible to purchase these lands. Information regarding the time and site of the auction, and specific sale procedures will be published in a sale brochure and made available to the public prior to the sale. The Bureau of Land Management may accept or reject any and all offers, or withdraw any lands or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable laws.

Publication of this notice in the **Federal Register** segregates the public lands from the operation of the public land laws and the mining laws. The segregative effect will end upon issuance of a patent or 270 days from the date of the publication, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: October 1, 1991.

William T. Combs,

Acting District Manager, Las Vegas, NV.

[FR Doc. 91-24451 Filed 10-9-91; 8:45 am]

BILLING CODE 4310-HC-M

[NM-030-01-4212-20]

Sale of Public Land in Catron and Socorro Counties, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action, Interior.

SUMMARY: The Bureau of Land Management (BLM) announces that the following described parcels of land have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the appraised fair market value shown. The parcels are isolated, difficult and uneconomical to manage as part of the public land, and are not suitable for management by another Federal department or agency. The sale is consistent with the BLM's planning efforts, and the public interest will be served by offering this land for sale.

Sale Method

Parcels 1 through 7 will be offered for sale using competitive bidding procedures (43 CFR 2711.3-1). On parcels 9 through 12, the bidding will be modified to allow bids from designated bidders only (43 CFR 2711.3-2). Parcel 8, and parcels 13 through 63 will be offered to the listed parties through direct sale procedures not less than 60 days from publication of this notice (43 CFR 2711.3-3). However, parcels 8, 13, 21, 22, 39, 55 and 58 are also presently being considered for disposal as part of a pending multi-party land exchange pool. Should these parcels not be incorporated into the final exchange package, they will be offered for sale according to the procedures outlined in this Notice of Realty Action.

PARCEL INFORMATION

Parcel No.	Serial NM NM	Legal description, NMPM			Acres	Appraised value	Method of sale
		twnshp rge	Sec	Lot/tract			
1	69946	4S., 1E	18	30	0.34	$700	Competitive.
2	59334	4S., 1E	32	29	10.49	9,790	Competitive.
3	59347	4S., 1E	32	32	5.70	4,790	Competitive.
4	64758	4S., 1E	6	83	7.12	8,500	Competitive.
5	66343	4S., 1E	9	12	.50	900	Competitive.
		AKA: Tr. 81 MRGCD Map 168					
6	66360	4S., 1E	7	37	16.20	9,800	Competitive.
7	67562	4S., 1E	20	29, 40	1.14	2,000	Competitive.
		AKA: Tr. 39, and Portion of State Highway, MRGCD Map 170					
8	69955	4S., 1E	33	17	17.20	12,000	Direct to Charles and Jessie Headen and Herbert and Alice Cushing.
9	75578	5S., 1E	4	11	.48	530	Mod. Competitive.
10	77449	5S., 1E	17	15	.24	25	Mod. Competitive.
11	83784	5S., 1E	17	16	.24	25	Mod. Competitive.
12	69949	4S., 1E	18	33	1.51	1,900	Mod. Competitive.
13	66330	2S., 1E	31	11	2.76	5,400	Direct to Connie Gonzales, et al.
		AKA: Portion of Tr. 7A and 7B, MRGCD Map 159					
14	69942	5S., 1E	4	32	2.20	100	Direct to Leo Padilla.
		AKA: Portion of Road, MRGCD Map 175					
15	69944	4S., 1E	18	29	.10	25	Direct to Socorro County.
16	69945	4S., 1E	18	18, 19	6.22	25	Direct to AT&SF Railroad.
		AKA: Portion of Railroad and San Antonio Ditch, MRGCD Map 169					
17	69947	4S., 1E	18	28	2.80	100	Direct to Charles and Joyce VanLandingham.
18	69948	4S., 1E	18	27, 34	1.36	125	Direct to Earl Towner.
19	69954	4S., 1E	18	23, 31	7.36	25	Direct to NMSHD.

PARCEL INFORMATION—Continued

Parcel No.	Serial NM NM	Legal description, NMPM twnshp rge	Sec	Lot/tract	Acres	Appraised value	Method of sale
		AKA: Portion of State Highway, MRGCD Map 169					
20	75581	5S., 1E	4	35	1.71	100	Direct to Adolph and Rowena Baca.
		AKA: Portion of Tr. 33, MRGCD Map 175					
21	75580	5S., 1E	4	41	16.93	8,465	Direct to Esquipula Vigil, Jr.
		AKA: Portion of Tr. 59, MRGCD Map 175					
22	75579	5S., 1E	4	40	16.92	8,460	Direct to Cleto and Ruby Vasquez.
		AKA: Portion of Tr. 59, MRGCD Map 175					
23	69956	5S., 1E	4	43	1.34	25	Direct to Socorro Co.
		AKA: Portion of Public road, MRGCD Map 175					
24	77436	5S., 1E 5S., 1E	17 18	18 20	1.79	25	Direct to MRGCD.
		AKA: Portions of Main Canal South and Elmendorf Drain, MRGCD Map 179					
25	77417	5S., 1E	4	31	0.001	25	Direct to Adolph and Rowena Baca.
		AKA: Portion of Tr. 31, MRGCD Map 175					
26	77432	5S., 1E	18	22, 23	1.68	25	Direct to NMSHD.
		AKA: Portion of U.S. Highway 85, MRGCD Map 179					
27	77433	5S., 1E	18	21	6.14	25	Direct to AT&SF Railroad.
		AKA: Portion of Railroad, MRGCD Map 179					
28	77437	5S., 1E	4	30	0.06	25	Direct to C. Headen et al.
		AKA: Portion of Tr. 29, MRGCD Map 175					
29	69958	5S., 1E	7	15	0.07	25	Direct to Theresa Villalobos.
		AKA: Portion of Tr. 22, MRGCD Map 176					
30	69959	5S., 1E 5S., 1E	5 7	44 18, 23	4.88	25	Direct to NMSHD.
		AKA: Portion of State Highway, MRGCD Map 175 and Portion of U.S. Highway 85, MRGCD Map 176					
31	69960	5S., 1E 5S., 1E	5 7	45 17, 24	11.52	30	Direct to AT&SF Railroad.
		AKA: Portion of AT&SF Railroad, MRGCD Maps 175 and 176					
32	69961	5S., 1E 5S., 1E 5S., 1E	5 6 7	43 7 14, 16	1.29	100	Direct to Huning Land Trust
		AKA: Portion of Tr. 75, MRGCD Map 175, and Portion of Tr. 7, 19a, and 21, MRGCD Map 176					
33	69962	4S., 1E 5S., 1E	32 5	43, 44 21, 22, 28, 29, 33, 35, and 37.	48.22	120	Direct to MRGCD.
		AKA: Portions of Conveyance Channel, Spoilbanks, the Socorro Main Canal, and Rio Grande, MRGCD Map 175					
34	69963	5S., 1E	5	16	0.05	25	Direct to Sally Stiers.
		AKA: Portion of Tr. 63, and the San Antonio Ditch, MRGCD Map 175					
35	69969	5S., 1E	7	22	0.75	25	Direct to Socorro Co.
		AKA: Portion of Road, MRGCD Map 176					
36	75506	5S., 1E	7	19	0.79	25	Direct to Archdiocese of Santa Fe.

		AKA: Portion of Unlotted Government Land, MRGCD Map 176					
37	75529	5S., 1E	5	42	0.91	100	Direct to Jose Romero.
		AKA: Portion of Tr. 8, MRGCD Map 175					
38	75575	4S., 1E 5S., 1E	32 5	40 24	1.77	100	Direct to Cooney Benavidez.
		AKA: Portion of Tr. 5, MRGCD Map 175					
39	75576	5S., 1E	4	38	7.74	3,870	Direct to Melvin and Josie Cole.
		AKA: Tr. 36, MRGCD Map 175					
40	77422	5S., 1E	8	27, 29, 32, 38.	0.94	100	Direct to Neil and Pauline Bruton.
		AKA: Portion of Tr. 15A, 16, 18, 27, 28, 29, 31A, 31B2B, 34A, and 51 and Road and Ditch, MRGCD Map 176					
41	77423	5S., 1E	8	28	0.03	25	Direct to MRGCD.
		AKA: Portion of the Socorro Main Canal, MRGCD Map 176					
42	77424	5S., 1E.,	8	25	1.24	25	Direct to NMSHD.
		AKA: Portion of U.S. Highway 85, MRGCD Map 176					
43	77425	5S., 1E	7 8	21 26	0.50	100	Direct to Huning Land Trust.
		AKA: Portion of Tr. 26, and U.S. Highway 85, MRGCD Map 176					
44	77426	5S., 1E	8	35, 42	1.71	25	Direct to Socorro Co.
		AKA: Portion of Road and San Antonio Ditch, MRGCD Map 176					
45	77427	5S., 1E	8	30	0.37	25	Direct to Socorro Gallegos.
		AKA: Portion of Tr. 34B and road, MRGCD Map 176					
46	77428	5S., 1E	8	24	6.43	25	Direct to AT&SF RR.
		AKA: Portion of AT&SF Railroad, MRGCD Map 176					
47	77429	5S., 1E	8	33	0.01	25	Direct to Esequiel Padilla Jr.
		AKA: Portion of Tr. 36A2B, MRGCD Map 176					
48	77430	5S., 1E	8	18, 37	0.19	25	Direct to Felix Padilla.
		AKA: Portion of Road and Tr. 54B, MRGCD Map 176					
49	77442	5S., 1E	8	36, 40	0.87	100	Direct to: Yolanda B. Cook, Joe Raymond Bianchi, and Carmelia Bianchi-Walentowski.
		AKA: Portion of Tr. 49 and 50 and Portion of Ditch, MRGCD Map 176					
50	69968	4S., 1E	29	18	0.004	25	Direct to Ernest F. Sichler.
		AKA: Portion of Tr. 29B1, MRGCD Map 172					
51	67602	4S., 1E	20	34	0.020	25	Direct to Valentino and Helen Rivera.
		AKA: Portion of Tr. 13A2B, MRGCD Map 170					
52	82671	5S., 16W	8	Tr. 47	0.36	250	Direct to Jose Aragon.
53	82672	5S., 16W	8	Tr. 48	0.04	25	Direct to Gorgonio Vallejos.
54	82673	5S., 16W	8	Tr. 49	0.02	25	Direct to Andrew Aragon.
55	82674	5S., 16W	8	Tr. 40, 46	1.79	1,250	Direct to Lugarda Gibbons.
56	82675	5S., 16W	8	Tr. 50	0.19	25	Direct to Lugarda Gibbons and Phillip Candelaria.
57	82676	5S., 16W	8	Tr. 52	0.18	25	Direct to Juan and Francis Mata.
58	82677	5S., 16W	8	Tr. 37, 41	3.34	2,325	Direct to Samuel Gutierrez.
59	82678	5S., 16W	8	Tr. 43, 51, and 53.	0.43	25	Direct to Raymundo Gutierrez.
60	82679	5S., 16W	8	Tr. 39	0.72	250	Direct to Juan and Ramona Gutierrez.
61	82680	5S., 16W	8	Tr. 38, 42, 44.	0.42	150	Direct to Lorrie Vallejos Sarafin.
62	75585	5S., 1E	15	Tr. 15, 16	0.52	100	Direct to Jacobo Vigil.
63	75586	5S., 1E	15	17	0.50	100	Direct to Lorenzo Vigil.

Sales Procedures

The sale of parcels 1 through 7 and 9 through 12 will be competitive sealed bids followed by oral bidding. However, on parcels 9 through 12, competitive bids will only be accepted from the designated bidders named below.

Modified Competitive Sale Designated Bidders

Parcel No. 9
1. Tomas Delgadillo
2. Charles and Jessie Headen and Territorial Land Co.

Parcel No. 10
1. Efrain Chavez, Jr.
2. Pauline Bruton

Parcel No. 11
1. Efrain Chavez, Jr.
2. Pauline Bruton

Parcel No. 12
1. Gilbert F. Saiz
2. Bill Sargent

Sealed bids will be considered only if received in the Socorro Resource Area Office, 198 Neel Avenue, NW., Socorro, NM 87801, before 10 a.m. on December 10, 1991, the day of the sale. Oral bids will be accepted commencing at 10:30 a.m., following the opening of all sealed bids, at the same place on the same sale date. Sealed bids of less than the appraised fair market value will be rejected. The highest qualified sealed bid will be publicly declared by the Authorized Officer. The highest qualified sealed bid will then become the starting point for the oral bidding. If no qualified sealed bids are received, the oral bidding will start at the appraised fair market value. In the absence of oral bids, the highest qualified sealed bid will establish the sale price for the parcel. In the event that two or more sealed bids are received containing valid bids of the same amount for the same parcel, and no higher oral bid is received for that parcel, the determination of which is to be considered the highest designated bid will be by supplemental bidding. In such a case, the high bidders will be allowed to submit oral or sealed bids as designated by the Authorized Officer. After oral bids are received, the highest qualifying bid, whether sealed or oral, shall be declared by the Authorized Officer.

Bidders must be 18 years of age or over and United States citizens, and corporations must be subject to the laws of any state or of the United States. Apparent high bidders must submit proof of these requirements within 15 days after the sale date. Bids must be made by the principal or his duly qualified agent. Each sealed bid must be written or typed and accompanied by postal money order, bank draft, or cashier's check made payable to the Department of Interior, Bureau of Land Management, for not less than 10 percent or more than 30 percent of the amount of the bid. The sealed bid envelope containing the bid and the required amount must be marked in the lower left-hand corner as follows:

Public Sale Bid Parcel No.———————
Serial No. ———————
Sale Held ———————
(Date)

Each successful oral bidder will be required to pay not less than 20 percent of the amount of the bid immediately following the sale. Payment must be by cash, personal check, bank draft, money order, or any combination of these. Successful bidders, whether such bid is oral or sealed, will be required to pay the remainder of the sale price prior to expiration of 180 days from the date of the sale. Failure to submit the full sale price within the above specified time limit will result in cancellation of the sale of the specific parcel and the deposit will be forfeited and disposed as other receipts of sale.

All sealed bids will be either returned, accepted, or rejected within 30 days of the sale date. Parcels not sold on the day of the sale will be reoffered for sale every first Tuesday of each month, same time and place, by the same procedures described above until sold or until June 2, 1992, at close of business.

On parcels 9 through 12: Should any parcel remain unsold to the designated bidders on the sale date, they will then be offered by the open competitive bidding procedures described above every first Tuesday of each month, same time and place, until sold or until June 2, 1992, at close of business.

On parcels 52 through 61: If the named purchasers fail to complete the direct purchase of any parcels during the time allowed for such purchase, the unsold parcels will be offered for sale every first Tuesday of each month until June 2, 1992, at close of business, by modified competitive bidding. This modified competitive bidding will be limited to those property owners within the Aragon townsite.

In the event that the Authorized Officer rejects the highest qualified bid of any of the above parcels, or releases the bidder from it, the Authorized Officer shall determine the public land shall be withdrawn from the market or reoffered.

Terms and Conditions

Terms and conditions applicable to the sale are:

1. The patents, when and if issued, will contain a reservation to the United States for ditches and canals.

2. All minerals will be reserved to the United States together with the right to prospect for, mine, and remove the minerals.

3. All patents will be issued subject to existing access road right-of-way and easements.

4. The following parcels lie within or partially within a 100-year floodplain and the patents will contain land use restrictions as required by Executive Order 11988: 10, 11, 13, 14, 20 through 22, 24, 26, 27, 29 through 33, 35, and 37 through 50, and 52 through 62.

5. Parcels 14, 20 through 22, and 39 lie within wetland areas and the patents will contain wetland restrictions in accordance with Solicitor's opinion, BLM SA 0057.

6. On parcel 1; the purchaser will, upon issuance of the patent, be required to grant an easement to an adjacent landowner for an existing buried waterline.

7. On parcel 4; the purchaser will, upon issuance of the patent, be required to grant an easement for a certain access road existing on the parcel.

8. On parcels 53 through 56 and 58 through 61; the patents will be issued subject to an existing Catron County Road known as First Street.

9. On parcel 4; the patent will be issued subject to those rights for powerline purposes as have been granted to Socorro Electric Cooperative by Right-of-Way (ROW), No. NMNM 66329, and also to those rights for road purposes as have been granted by the New Mexico State Highway Department (NMSHD) by ROW, No. NMNM 09223.

10. On parcel 6; the patent will be issued subject to those rights for road purposes as have been granted to Socorro County by ROW, No. NMNM 67576.

11. On parcel 7; the patent will be issued subject to those rights for road purposes as have been granted to NMSHD by ROW, No. NMNM 66370.

12. On parcels 15, 19, and 33; the patents will be issued subject to those rights as have been granted to Mountain Bell by ROW, No. NMNM 66354 for communications facilities.

13. On parcels 56, 57, and 59; the patents will be issued subject to those rights for road purposes as have been granted to the NMSHD by ROW, No. NMNM 010186.

14. On parcels 58, 60, and 61; the purchasers will, upon issuance of the patent, be required to grant easements to the Aragon Community Water Users Association, for a 15-foot wide access

road to maintain a community water 'ower.

15. On parcel 55; the purchaser will, upon issuance of the patent, be required to grant an easement to the Aragon Community Water Users Association, for an existing community water tower and 15-foot wide access road.

16. On parcel 9; the successful bidder will be required to grant a 12-foot wide easement for road and utility purposes along the northern boundary of Lot 11.

17. Parcels 3, 12, and 17 are encumbered by existing powerlines.

18. On parcel 11; the patent will contain a reservation for the Elmendorf Interior Drain.

19. On parcel 12; the patent will be issued subject to those rights granted by Right-of-Way No. NMNM 83793 for an access road and waterline.

DATES: Interested parties may submit comments regarding the proposed action to the Socorro Resource Area Manager within 45 days of publication of this Notice.

ADDRESSES: Comments should be sent to the Bureau of Land Management, Socorro Resource Area Office, 198 Neel Avenue NW., Socorro, New Mexico 87801.

FOR FURTHER INFORMATION: Additional information concerning the land, terms and conditions of sale, and bidding instructions may be obtained from the Socorro Resource Area Office at the above address. Telephone calls may be directed to Jon Hertz, Chella Herrera, or Lois Bell at (505) 835–0412.

Comments must reference specific parcel numbers. Adverse comments received on specific parcels will not affect the sale of any other parcel. Objections will be reviewed by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

Upon publication in the **Federal Register**, the lands described above will be segregated from appropriation under the public land laws, including the mining laws. The segregative effect of this Notice of Realty Action shall terminate upon issuance of patent or other document of conveyance to such land, upon publication in the **Federal Register** of a termination of the segregation or 270 days from the date of publication, whichever occurs first.

The BLM may accept or reject any offer to purchase or withdraw any tract from sale if the Authorized Officer determines that consummation of the sale would not be fully consistent with FLPMA or another applicable law.

Dated: October 4, 1991.

Robert R. Calkins,

Acting District Manager.

[FR Doc. 91–24430 Filed 10–9–91; 8:45 am]

BILLING CODE 4310–FB–M

Minerals Management Service

Outer Continental Shelf Advisory Board—Policy Committee; Notice and Agenda for Meeting

The Policy Committee of the OCS Advisory Board will meet Tuesday, November 19 and Wednesday, November 20, 1991, at the Holiday Inn Fair Oaks, 11787 Lee Jackson Highway, Fairfax, Virginia, (703) 352–2525.

The agenda will cover the following principal subjects:

Tuesday, November 19:

—Proposed Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997
—Report of the Subcommittee to Review Policy Committee Operating Procedures
—Operations Report, including the Safety and Environmental Management Program

Wednesday, November 20:

—Impact Assistance
—Marine Minerals Panel: Louisiana Sand Project and Possible Spin-offs
—Committee Roundtable
—MMS International Program: Briefing and Request for Committee Suggestions
—Oil and Natural Gas Economics: The Implications for the OCS Program

The meeting is open to the public. Upon request, interested parties may make oral or written presentations to the Policy Committee. Such requests should be made no later than November 1, 1991, to the Office of OCS Advisory Board Support, Minerals Management Service, Department of the Interior, 1849 C Street, NW., room 4230, Washington, DC 20240, Attention: Terry Holman.

Requests to make oral statements should be accompanied by a summary of the statement to be made. For more information, call Terry Holman at (202) 208–3421.

Minutes of the Policy Committee meeting will be available for public inspection and copying at the Minerals Management Service, Department of the Interior, 1849 C Street, NW., room 2070, Washington, DC 20240. This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92–463, 5 U.S.C. appendix 1, and the Office of Management and Budget's Circular No. A–63, Revised.

Dated: October 2, 1991.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 91–24445 Filed 10–9–91; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–327]

Certain Food Trays With Lockable Lids; Commission Determination Not To Review an Initial Determination Terminating the Investigation on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ) initial determination (ID) terminating the above-captioned investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Abigail A. Shaine, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3094.

SUPPLEMENTARY INFORMATION: On September 6, 1991, complainant Inline Plastics Corporation ("Inline") and respondent Par-Pak Ltd. ("Par-Pak") filed a joint motion to terminate this investigation on the basis of a settlement agreement. The Commission investigative attorney (IA) filed a response in support of the motion. The presiding administrative law judge (ALJ) issued an ID (Order No. 5) on September 12, 1991, terminating the investigation on the basis of the settlement agreement. No petitions for review, or agency or public comments were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53(h), 19 CFR 210.53(h).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter

can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: October 4, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–24365 Filed 10–9–91; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–538 (Preliminary)]

Sulfanilic Acid From the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731–TA–538 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of sulfanilic acid and sodium sulfanilate, provided for in subheadings 2921.42.24 and 2921.42.70 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by November 18, 1991.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201, as amended by 56 FR 11918, Mar. 21, 1991), and part 207, subparts A and B (19 CFR part 207, as amended by 56 FR 11918, Mar. 21, 1991).

EFFECTIVE DATE: October 3, 1991.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk (202)–205–3190), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background—This investigation is being instituted in response to a petition filed on October 3, 1991, by R–M Industries, Inc., Fort Mill, SC.

Participation in the investigation and public service list—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on October 24, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Valerie Newkirk (202–205–3190) not later than October 21, 1991, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 29, 1991, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

Issued: October 4, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–24425 Filed 10–9–91; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31943]

Alabama Railroad Co.—Acquisition and Operation Exemption—Wabash & Grand River Railway

Alabama Railroad Co. (ARC) has filed a notice of exemption to purchase and operate 60.7 miles of rail line between milepost 607.73, at Flomaton, AL, and milepost 666.3, at Corduroy, AL, including the M&R Junction Spur between valuation stations 0+00 and 90+81 and the Vredenburg Branch between valuation stations 0+00 and 19+92. The line is owned by CSX Transportation, Inc. (CSX), which will sell it to Wabash & Grand River Railway (W&GR).[1] Shortly after consummation of the CSX–W&GR transaction (October 13, 1991), W&GR will sell the line to ARC, an affiliate of W&GR.

This transaction is related to a notice of exemption filed concurrently in Finance Docket No. 31944, Pioneer Railroad Company, Inc.—Continuance in Control Exemption—Alabama Railroad Co.

Any comments must be filed with the Commission and served on Mary Todd

[1] CSX's sale of the line to W&GR was exempted from prior approval in Finance Docket No. 31868, Wabash & Grand River Railway Company—Acquisition and Operation Exemption—CSX Transportation, Inc., Line between Flomaton and Corduroy, Alabama (not printed), served September 13, 1991.

Carpenter, Gerst, Heffner, Carpenter & Podgorsky, 1700 K Street, NW., suite 1107, Washington, DC 20006.

ARC shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.[2]

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 3, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-24441 Filed 10-9-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31941]

St. Louis Southwestern Railway Co. and SPCSL Corp.—Trackage Rights Exemption—The Alton & Southern Railway Co.

The Alton & Southern Railway Company (A&S) has agreed to grant overhead trackage rights to SPCSL Corp. and St. Louis Southwestern Railway Company over 18.7 miles of its main line, including certain connecting tracks, between Valley Junction and Lenox (Mitchell), at or near East St. Louis, IL. The trackage rights were to have become effective on or after September 27, 1991.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Gary A. Laakso, SPCSL Corp./Cotton Belt, One Market Plaza, room 846, San Francisco, CA 94105.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to Norfolk and Western RY. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast RY., Inc.—Lease and Operate, 360 I.C.C. #653(1980).

Dated: October 3, 1991.

[2] Applicant certifies that it has identified to the appropriate State Historic Preservation Officer all sites and structures 50 years old and older that will be transferred as a result of this transaction.

By the Commission, David M. Konschnik, Director, Office of proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-24442 Filed 10-9-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31946]

Crown Pacific Railroad, Inc.—Acquisition and Operation Exemption—Line of Gilchrist Timber Co.

Crown Pacific Railroad, Inc. (Crown), has filed a notice of exemption to acquire and operate as a class III rail carrier 10.5 miles of track owned by Gilchrist Timber Company. The line extends between milepost 0.0, at Gilchrist Junction, OR and milepost 10.5, at Gilchrist, OR. The transaction was to be consummated near the end of September 1991.

Any comments must be filed with the Commission and served on: Roger L. Krage, suite 900, 121 S.W. Morrison, Portland, OR 97204.

Crown shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the national Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ad initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 3, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-24443 Filed 10-9-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31944]

Pioneer Railroad Co., Inc.—Continuance in Control Exemption—Alabama Railroad Co.

Pioneer Railroad Company, Inc. (Pioneer), a noncarrier, has filed a notice of exemption to continue to control Alabama Railroad Co. (ARC) upon ARC's becoming a carrier. ARC, a noncarrier, has concurrently filed a notice of exemption in Finance Docket No. 31943, Alabama Railroad Co.—Acquisition and Operation Exemption—Wabash & Grand River Railway, to purchase and operate a 60.7-mile rail line between Flomaton and Corduroy, AL. The line is owned by CSX Transportation, Inc., but is being sold to Wabash and Grand River Railway (W&GR), ABC's affiliate, which in turn will sell it to ARC.

Pioneer owns and controls the following Class III rail common carriers: West Jersey Railroad Company, W&GR, and Fort Smith Railroad Company. It indicates that: (1) The properties operated by the named railroads will not connect with each other; (2) the continuance in control is not a part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. The transaction therefore is exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Mary Todd Carpenter, Gerst, Heffner, Carpenter & Podgorsky, 1700 K Street, NW., suite 1107, Washington, DC 20006.

Decided: October 3, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-24444 Filed 10-9-91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on September 26, 1991, a proposed Consent Decree in *United States* v. *A.F.T. Corp.*, Case No. CV 91-5212 Kn (Tx), was submitted for lodging with the Federal District Court for the Central District of California. The United States filed this action to enforce the Clean Air Act, 42 U.S.C. 7401, *et seq.* (the "Act"), and the Rule to Protect the Stratospheric Ozone, 40 CFR part 82 (1989) (the "Rule"), promulgated thereunder, concerning importation of chlorofluorocarbons ("CFCs"). The Rule implements the United States' commitment under the Montreal

Protocol on Substances that Deplete the Ozone Layer ("Montreal Protocol") to restrict the United States' production and consumption of ozone-depleting chemicals by requiring producers and consumers of these substances to limit production and consumption to within the number of "allowances" they hold in a given 12-month control period. The complaint alleges that A.F.T. Corp. violated the Act and the Rule by importing CFCs into the United States during 1989 without acquiring the requisite consumption allowances.

Under the proposed Consent Decree, A.F.T. will pay $12,130 in settlement of claims alleged in the complaint seeking penalties for past wrongful importation.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *A.F.T. Corp.*, Case No. CV 91–5212 Kn (Tx), DJ # 90–5–2–1–1572.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Central District of California, room 7516 Federal Building, 300 North Los Angeles Street, Los Angeles, California; (2) the U.S. Environmental Protection Agency, Office of Enforcement, 401 M Street, SW., Washington, DC; and (3) the Environmental Enforcement Section, Environment & Natural Resources Division, U.S. Department of Justice, 10th & Pennsylvania Avenue, NW. Washington, DC. Copies of the proposed Decree may be obtained by mail from the Environmental Enforcement Section of the Department of Justice, Environment and Natural Resources Division, P.O. Box 7611, Benjamin Franklin, Station, Washington, DC 20044–7611, or in person at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004, (202) 347–7829. Any request for a copy of the proposed Consent Decree should be accompanied by a check for copying costs totalling $4.00 ($0.25 per page) payable to "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 91–24389 Filed 10–9–91; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Resource Conservation and Recovery Act, the Clean Water Act, and the Rivers and Harbors Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 25, 1991, a proposed consent decree in *United States of America* versus *AVX Corporation, et al.*, Civil Action No. 83–3882–Y, was lodged with the United States District Court for the District of Massachusetts. This case concerns claims by the United States and the Commonwealth of Massachusetts for past and future cleanup costs, for injunctive relief, and for natural resource damages at the New Bedford Harbor Superfund site (the Site) in southeastern Massachusetts. The United States' claims are under sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), section 7003 of the Resource Conservation and Recovery Act, section 504 of the Clean Water Act, and the Rivers and Harbors Act. The Commonwealth has similar claims under section 107 of CERCLA and state law.

The proposed consent decree resolves these claims against one of the five defendants named in this lawsuit. The settling defendant AVX Corporation. The consent decree requires AVX Corporation to pay a total of $66 million, plus accrued interest from August 1990, towards the costs incurred by the federal and state governments for investigation and cleanup of PCB contamination in New Bedford Harbor and for natural resource damages. Of this amount, $59 million, plus accrued interest, will be paid to the Environmental Protection Agency's Superfund for past and future cleanup costs. The remaining $7 million, plus accrued interest, will be paid to the National Oceanic and Atmospheric Administration (NOAA), which is the lead federal natural resource trustee at this site, and the Massachusetts Secretary of Environmental Affairs, who is the designated state natural resource trustee, for natural resource damages. Most of this damage amount will be placed in a fund in the Registry of the U.S. District Court and will be used jointly by NOAA, the Department of the Interior, and the state trustee to restore, replace, or acquire the equivalent of natural resources that have been injured by the PCB contamination in New Bedford Harbor.

This settlement does not affect the pending claims relating to the New Bedford Harbor site against the two remaining defendants in this action. Claims against two other defendants in the lawsuit were settled by consent decree entered by the court on July 17, 1991. Intervenor National Wildlife Federation has noticed an appeal from the July 17, 1991 court order approving that settlement.

The Department of Justice will receive comments on the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* versus *AVX Corporation*, D.J. Ref. 90–11–2–32.

The proposed consent decree may be examined at the office of the United States Attorney, 1107 J.W. McCormack Post Office/Courthouse, Boston, Massachusetts 02109 and at the Region I office of the Environmental Protection Agency, 2203 JFK Federal Building, Boston, Massachusetts 02203. Copies of the consent decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Washington, DC 20004 (202–347–2072). Copies of the proposed consent decree may be obtained in person or by mail from the Document Center at the above address. In requesting a copy, please enclose a check in the amount of $9.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Barry H. Hartman,

Acting Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 91–24388 Filed 10–9–91; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to Comprehensive Environmental Response Compensation, and Liability Act

In accordance with section 122(d)(2) of the Comprehensive Environmental Resource, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9622(d)(2) and, the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a complaint styled *United States* v. *Marathon Battery Company*, 91 Civ. 6544 (VLB), was filed in the United States District Court for the Southern District of New York on September 27, 1991. On September 30, 1991, a consent decree was lodged with the Court in settlement of the allegations in that

complaint. The complaint, brought pursuant to Sections 104, 107(a) and 113(b) of CERCLA ("The Act") 42 U.S.C. 9604, 9607(a) and 9613(b), alleged *inter alia* that there is and has been a release or threatened release of hazardous substances into the environment at or from Area II of the Marathon Site. Area II is a "facility" within the meaning of section 101(9) of CERCLA, 42 U.S.C. 9601(9). The Marathon Site is listed on the National Priorities List (NPL), 40 CFR part 300, appendix B. Marathon Battery Company ("Marathon"), is the present and former owner and/or operator of the facility during the time that hazardous substances were disposed of within the meaning of section 107(a) of CERCLA, 42 U.S.C. 9601(22), 9604(a) and 9607(a). The United States Army Signal Corps, presently the United States Army ("Army") was a former owner of that facility during the time that hazardous substances were disposed of there.

Following the completion of a Remedial Investigation and Feasibility Study ("RI/FS"), which was conducted in order to investigate and determine the nature and extent of contamination of Area II, the United States Environmental Protection Agency, Region II (EPA), selected a remedial action for Area II. The decision is set forth in a Record of Decision ("ROD") which was signed on September 30, 1988.

Under the terms of the proposed consent decree, Marathon and the Army agree to pay the United States the sum of $11,350,000 which shall be used to fund the remedial action for Area II. This payment represents about 70% of the costs the United States will need to expand to implement the remedial action for Area II.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States* v. *Marathon Battery Company,* D.J. Ref. 90–11–2–314.

The proposed consent decree may be examined at the Environment Enforcement Section Document Center, 601 Pennsylvania Ave. NW., Box 1097, Washington, DC 20004, (202) 347–7829. A copy of the proposed consent decree may be obtained in peson or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $7.75 (25 cents per page reproduction costs) payable to Consent Decree Library. The proposed Consent Decree may also be reviewed at the Environmental Protection Agency:

EPA Region II

Contact: Beverly Kolenberg, Office of Regional Counsel, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278

and the Office of the United States Attorney for the Southern District of New York.

100 Church Street, 19th Floor, New York, New York 10007.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 91–24383 Filed 10–9–91; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 30, 1991 a proposed consent decree in *United States* v. *Mexico Feed and Seed Co., et* al., Civil Action No. N87–0030C, was lodged with the United States District Court for the Eastern District of Missouri. The proposed consent decree concerns a complaint filed by the United States under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. 9606, 9607. This is a civil action for recovery of response costs that have been incurred by the United States in response to releases and threatened releases of hazardous substances from the facility, known as the "Mexico Feed & Seed Site," located near Mexico, Missouri. The consent decree provides that James and Mary Covington, individually and doing business as Mexico Feed & Seed Co., defendants, will pay $45,000 towards response costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Mexico Feed & Seed, et al.,* D.J. Ref. 90–11–2–209.

The proposed consent decree may be examined at the office of the United States Attorney for the Eastern District of Missouri, 1114 Market Street, St. Louis, Missouri, 63101, at the Region VII Office of the United States Environmental Protection Agency, Office of Regional Counsel, 726 Minnesota Avenue, Kansas City, Kansas 66101, and at the Environmental Enforcement Section, Environment and Natural Resources Division of the Department of Justice, room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the consent decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004, (202) 347–7829. In requesting copies, please enclose a check in the amount of $3.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

The Administrative Record may be examined at the Region VII Office of the United States Environmental Protection Agency, Office of Regional Counsel, 726 Minnesota Avenue, Kansas City, KS 66101.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91–24384 Filed 10–9–91; 845 am]

BILLING CODE 4410–01–M

Lodging of Consent Order Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with 42 U.S.C. 9622 and with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent order in *United States* versus *Schlumberger Industries, Inc.,* Civil Action No. 91–4222, has been lodged with the United States District Court for the Southern District of Illinois on September 30, 1991. The proposed consent order concerns cleanup of the PCBs Operable Unit, a hazardous waste site at the Crab Orchard National Wildlife Refuge. The proposed consent order requires defendant to perform a cleanup at the Site, pay certain United States Environmental Protection Agency costs, and pay certain natural resource damages to the United States Department of the Interior.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent order. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice,

Washington, DC 20530, and should refer to *United States* versus *Schlumberger Industries, Inc.*, D.J. Ref. 90–11–3–643.

The proposed consent order may be examined at the office of the United States Attorney for the Southern District of Illinois, room 330, 750 Missouri Avenue, East St. Louis, Ill. 62201, at the Office of Regional Counsel, United States Environmental Protection Agency, Region V, 111 West Jackson Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, (202) 347–2072. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $52.00 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91–24385 Filed 10–9–91; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act and the Comprehensive Environmental, Response, and Liability Act of 1980

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on September 28, 1991 a proposed Consent Decree in *United States* v. *Wards Cove Packing Company, Inc.*, Civil Action No. C90–863D (W.D. Wash.), was lodged with the United States District Court for the Western District of Washington. The Consent Decree concerns alleged violations of the National Emission Standards for Hazardous Air Pollutants relating to asbestos ("the asbestos NESHAP"), 40 CFR part 61, and the Clean Air Act, 42 U.S.C. 7401 *et seq.*, as well as section 103(a) of the Comprehensive Environmental Response and Liability Act of 1980 (CERCLA), 42 U.S.C. 9603(a). The proposed Consent Decree requires Defendant Wards Cove Packing Company, Inc. ("Wards Cove"), *inter alia* (1) to pay a civil penalty of $60,000.00 to the United States; (2) to comply with the asbestos NESHAP and both the Clean Act Act and CERCLA in the future; (3) to engage for asbestos-related activities only those persons who certify that they are familiar with the NESHAP and that they have completed a State- or EPA-approved training course for asbestos inspectors; (4) to conduct inspections and perform sampling to determine whether asbestos is present prior to commencing all future demolition and/or renovation projects and to maintain the records of such inspections and testing; and (5) to designate an "Asbestos Program Manager" who will oversee Wards Cove's program for dealing with asbestos. The Asbestos Program Manager must have completed an EPA- or State-approved course for asbestos inspectors and is responsible for managing all of Wards Cove's activities relating to the control of asbestos.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Wards Cove Packing Company, Inc.*, D.J. No. 90–5–2–1–1425. In addition, the proposed Consent Decree may be examined at the Office of the United States Attorney for the Western District of Washington, 3600 Seafirst Building, 800 Fifth Avenue Seattle, Washington 98104 and at the U.S. Environmental Protection Agency-Region 10, Office of Regional Counsel, 1200 Sixth Avenue, Seattle, Washington, 98101. The Decree also may be examined at the Environmental Enforcement Section Document Center, suite 600, 1333 F Street, NW., Washington DC 20004. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $4.25 (25 cents per page reproduction cost) payable to the Aspen Systems Corporation.

John C. Cruden,

Chief, Environmental Enforcement Section Environmental and Natural Resources Division.

[FR Doc. 91–24449 Filed 10–9–91; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—Bell Communications Research, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") on September 6, 1991, filed a written notification on behalf of Bellcore and Xerox Corporation ("Xerox") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objective of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

Xerox is a New York corporation with its principal place of business at 800 Long Ridge Road, Stamford, Connecticut 06904.

Bellcore and Xerox entered into an agreement effective as of August 13, 1991 to engage in cooperative research activities directed to exploring the technology for broadband communications utilizing asynchronous transfer mode ("ATM") and ATM transport mechanisms, to better understand the applications of this technology for exchange and exchange access services, including prototype fabrication for the experimental demonstration of such technology.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91–24447 Filed 10–9–91; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984 Industrial Macromolecular Crystallography Association

Notice is hereby given that, on August 28, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Industrial Macromolecular Crystallography Association ("IMCA") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notification was filed for the purpose of invoking the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

The following parties have been added to IMCA:

Abbott Laboratories, an Illinois corporation, having a principal place of business at One Abbott Park Road, Abbott Park, Illinois 60064–3500; and

Glaxo Inc., a North Carolina corporation, having a principal place of business at 5 Moore Drive, Research Triangle Park, North Carolina 27709.

No other changes have been made in either the membership, objectives, or planned activities of IMCA.

On October 23, 1990, IMCA filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on December 3, 1990 (55 FR 49952–53). IMCA has filed one additional notification on June 6, 1991, notice of which the Department published in the Federal Register on July 5, 1991 (56 FR 30771).

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 91–24448 Filed 10–9–91; 8:45 am]

BILLING CODE 4410–D1–M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Application Received Under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by November 12, 1991. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7817.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The application received is as follows:

1. *Applicant*

Arthur L. DeVries
University of Illinois
Urbana, IL 61801

Activity for Which Permit Requested

Introduction of non-indigenous species to Antarctica. The applicant requests permission to transport 10 specimens of *Hemideina Maori*, a flightless insect, to McMurdo Station, Antarctica for use in experiments on freezing tolerance in various species. The specimens will be kept under controlled conditions in a laboratory and not released in the environment.

Location

McMurdo Station, Antarctica

Dates

November 1991—January 1992

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 91–24450 Filed 10–9–91; 8:45 am]

BILLING CODE 7555–01–M

Committee on Equal Opportunities in Science and Engineering; Meeting

Name: Committee on Equal Opportunities in Science and Engineering.

Place: National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Dates: October 24 & 25, 1991.

Times/Room: October 24: 8:30 a.m.–5 p.m., room 540, October 25: 8:30 a.m.–3 p.m., room 540.

Type of Meeting: Open.

Contact: Mary M. Kohlerman, Executive Secretary of the CEOSE, National Science Foundation, room 1225, Telephone Number: 202–357–7461.

Purpose of Meeting: To familiarize members with the NSF research and evaluation activities regarding its programs and funded projects; to learn of human resource efforts in the Research Directorates; to learn about the final outcomes of a study of talented minority youth; to discuss the report of the *ad hoc* meeting on issues related to persons with disabilities; and to provide advice to the Foundation on policies and activities to encourage full participation of groups currently under-represented in scientific, engineering, professional and technical fields.

Agenda:

October 24

Presentations/Discussions: 8:30 a.m.–12 noon
Lunch: 12 noon
Presentations: 1:30 p.m.–4:15 p.m.
Full Committee Meeting: 4:15 p.m.

October 25

Full Committee Meeting: 8:30 a.m.–9 a.m.
Presentations: 9–12 noon
Lunch: 12 noon
Presentations: 1:30 p.m.–2:30 p.m.
Adjournment: 3 p.m.

Summary Minutes: May be obtained from the Executive Secretary at the above address.

Dated: October 4, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91–24455 Filed 10–9–91; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

International Exhibitions Federal Advisory Committees; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Federal Advisory Committee on International Exhibitions will be held on October 23, 1991 from 9 a.m.–3 p.m. in room M07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on October 23 from 9 a.m.–1:30 pm. The topics will be overview of FACIE role and responsibilities, current and future fund activities in the visual arts, and visual arts venues.

The remaining portion of this meeting on October 23 from 1:30 p.m.–3 p.m. is for the purpose of reviewing proposals for support under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of September 23, 1991, as amended, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: October 3, 1991.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91–24432 Filed 10–9–91; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Advanced Boiling Water Reactors; Meeting

The Subcommittee on Advanced Boiling Water Reactors will hold a meeting on October 23, 1991, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, October 23, 1991—8:30 a.m. until the conclusion of business.

The Subcommittee will review draft safety evaluation reports related to chapters 3, 9, 10, 11 and 13 of the GE/Standard Safety Analysis Report for the Advanced Boiling Water Reactor design and other related issues.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will hear presentations by and hold discussions with representatives of General Electric, NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Medhat El-Zeftawy (telephone 301/492–9901) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: October 3, 1991.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 91–24470 Filed 10–9–91; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Revised Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on October 10–12, 1991, in room P–110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the **Federal Register** on September 20, 1991. An additional session on naval reactors and the Yankee (Rowe) Nuclear Power Station has been scheduled for 1:30 p.m. on October 11, as noted in the following revised notice. The portion of this session dealing with naval reactors facilities will be closed as necessary to discuss Classification Information applicable to this matter.

Friday, October 11, 1991

8:30 a.m.—9:30 a.m.: Revised 10 CFR part 20, Standards for Protection Against Radiation (Open)—The Committee will review and report on proposed NRC Regulatory Guides to provide guidance regarding implementation of the recently revised 10 CFR part 20, Standards for Protection Against Radiation.

9:45 a.m.—10:45 a.m.: Reactor Requalification Program (Open)—The Committee will hear a briefing and hold a discussion regarding experience with the NRC reactor operator requalification program, including the impact of symptom-based operating procedures.

10:45 a.m.—11:45 a.m.: Resolution of Generic Issue-113, Dynamic Qualification of Large Bore Hydraulic Snubbers (Open)—The Committee will review and report on the NRC staff's proposed resolution of this generic issue. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

11:45 a.m.—12:30 p.m.: Future ACRS Activities (Open)—The Committee will discuss anticipated subcommittee activities and items proposed for consideration by the full Committee as well as items related to the scope and conduct of Committee and subcommittee activities.

1:30 p.m.—2:30 p.m.: ACRS Subcommittee Activities (Open/Closed)—The members will hear reports and discuss assigned subcommittee activities including the operating status of the Yankee (Rowe) Nuclear Power Station and a recent visit to operating naval nuclear facilities.

Portions of the session will be closed as necessary to discuss Classified Information applicable to the operation of naval nuclear facilities.

2:45 p.m.—5 p.m.: Key Technical Issues (Open)—The Committee will continue the discussion regarding key technical issues related to evolutionary, passive, and advanced nuclear power plant designs in need of early resolution.

5—6 p.m.: ACRS Subcommittee Activities (Open)—The Committee will hear reports on and discuss assigned subcommittee activities including proposed EPRI reactor setpoint methodology for future plants, and the status of the review of the GE ABWR plant.

Saturday, October 12, 1991

8:30 a.m.—11 a.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports regarding items considered during this meeting and issues that were not completed at previous meetings as time and availability of information permit.

11 p.m.—12:30 p.m.: Future ACRS Activities (Open)—The Committee will continue discussion of issues proposed for consideration by the full Committee.

1:30 p.m.—2:30 p.m.: Miscellaneous (Open)—The Committee will complete discussion of items considered during this meeting and items which were not completed at previous Committee meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 2, 1990 (55 FR 40249). In accordance with these procedures, oral

or written statements may be presented by members of the public, recordings will be permitted only during those open portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss Classified information consistent with 5 U.S.C. 552(c)(1).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301/492–8049), between 8 a.m. and 4:30 p.m.

Dated: October 3, 1991.

John C. Hoyle,

Advisory, Committee Management Officer.

[FR Doc. 91–24356 Filed 10–9–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–354]

Public Service Electric and Gas Co.; Atlantic City Electric Co.; Correction Notice

On September 18, 1991, the **Federal Register** published the "Bi-weekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations." On page 47251, for the Hope Creek Generating Station (application dated June 12, 1991) the Amendment No. reads "143". The correct Amendment number should be "43".

Dated at Rockville, Maryland, this 2nd day of October 1991.

For the Nuclear Regulatory Commission.

Stephen Dembek

Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–24471 Filed 10–9–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Florida Power Corporation

(Crystal River Unit 3 Nuclear Generating Plant); Exemption

I.

The Florida Power Corporation, et al. (FPC, the licensee) is the holder of Facility Operating License No. DPR–72, which authorizes operation of Crystal River Unit 3 Nuclear Generating Plant (CR–3, the facility) at a steady state reactor power level not in excess of 2544 megawatts thermal. The license provides, among other things, that it is subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a pressurized water reactor (PWR) located at the licensee's site in Citrus County, Florida.

II.

10 CFR part 50, appendix J, section III.D.2(a) states that "Type B tests, except tests for air locks, shall be performed during reactor shutdown for refueling * * * but in no case at intervals greater than 2 years."

10 CFR part 50, appendix J, section III.D.3 states that "Type C tests shall be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years."

For those containment penetrations an containment isolation valves which are the subject of this exemption, these tests would become due at CR–3 between March 1992 and May 1992. The tests necessary to meet the above-stated sections of appendix J to 10 CFR part 50 are also required by Technical Specification (TS) 4.6.1.2(d).

By letter dated January 31, 1991, as supplemented May 16, 1991, the licensee submitted a request for a one-time exemption from Sections III.D.2(a) and III.D.3 of appendix J to 10 CFR part 50 for CR–3 for 114 inboard and outboard containment isolation valves (CIVs) and their associated containment penetrations, and electrical penetrations. The licensee proposes to perform Type B and C local leak rate tests (LLRTs) at both the containment penetrations and the CIVs prior to startup from the eighth refueling outage (Refuel 8) for CR–3, currently scheduled to begin April 30, 1992. This would represent an extension of approximately 2 months beyond the 2-year requirement of Appendix J for this fuel cycle only. By separate correspondence dated June 20, 1991, the licensee also submitted a related TS change request which would revise TS 4.6.1.2(d) to be consistent with the request exemption. The licensee also responded to the Commission's staff requests for additional information related to the exemption by letter dated May 16, 1991.

III.

As discussed in the Safety Evaluation issued with this exemption, the Commission's staff has concluded, based on the short extension requested, the satisfactory previous leak rate test results, and the small likelihood of significant degradation of components involved during the extension period, that the proposed change presents no undue risk to public health and safety.

This case involves special circumstances as set forth in 10 CFR 50.12(a)(2)(ii). The underlying purpose of appendix J, Section III.D.2(a) and III.D.3 is to assure leak-tight integrity of containment isolation valves and penetrations through verification of acceptable leakage by test and identification of the need for maintenance and repairs. The satisfactory history of such tests at CR–3, the short extension of the required test interval, and the small likelihood that significant degradation of components will occur during the short extension, indicate that strict conformance to the 2-year testing interval requirements of the above sections of appendix J is not necessary to achieve the underlying purpose of these rules.

IV.

Based on the above, and on the review of the licensee's submittals as summarized in the Safety Evaluation issued with this exemption, the NRC staff concludes that the proposed exemption from certain requirements of 10 CFR part 50, appendix J, section III.D.2(a) and III.D.3 presents no undue risk to public health and safety, and is acceptable.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the requested exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Further, the Commission finds that special

circumstances, as described in 10 CFR 50.12(a)(2)(ii), are present in that application of the regulation in these circumstances is not necessary to achieve the underlying purpose of the rule.

Therefore, the Commission hereby approves the following exemption from the requirements of sections III.D.2(a) and III.D.3 of appendix J to 10 CFR part 50:

A temporary exemption is granted from the Type B and C testing within 2-year intervals required by 10 CFR part 50, appendix J, sections III.D.2(a) and III.D.3 for the applicable valves and penetrations on a one-time basis, provided that Type B and C tests are performed prior to startup form Refuel 8. This exemption shall expire prior to restart from Refuel 8, currently scheduled for June 25, 1992.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (56 FR 49491).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 30th day of September 1991.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–24472 Filed 10–9–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–424 and 50–425]

Georgia Power Co., et al.

(Vogtle Electric Generating Plant, Units 1 and 2); Exemption

I

Georgia Power Company, et al. (the licensee), is the holder of Facility Operating License Nos. NPF–68 and NPF–81 which authorize operation of the Vogtle Electric Generating Plant, Units 1 and 2. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facilities consist of two pressurized water reactors at the licensee's site located in Burke County, Georgia.

II

By letter dated June 3, 1991, the licensee requested changes to Vogtle Units 1 and 2 Technical Specifications (TSs) to allow use of two fuel assemblies, each containing up to twelve (12) fuel rods clad with ZIRLO™ instead of Zircaloy. Currently, the TSs recognize only the use of Zircaloy clad fuel. Similarly, four of the Commission's regulations include specific references to light water reactors by uranium oxide pellets enclosed in Zircaloy tubes. The four regulations are 10 CFR 50.46, 10 CFR 50 appendix K, 10 CFR 50.44, and 10 CFR 51.52 which provide requirements for emergency core cooling system (ECCS) performance, ECCS evaluation models, standards for combustible gas control system, and environmental effects of transportation of fuel and waste. The chemical composition of Zircaloy cladding is somewhat different from the chemical composition of ZIRLO™. The ZIRLO™ contains slight reductions in the amounts of tin, iron, chromium, and zirconium, and the addition of a nominal 1% niobium to improve its waterside corrosion and hydrating properties. Therefore, exemptions to the subject regulations are required to allow the use of ZIRLO™ cladding.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. According to 10 CFR 50.12(a)(2)(ii), special circumstances are present when "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * *."

The underlying purpose of 10 CFR 50.46 and 10 CFR 50 appendix K is to establish requirements for design calculations of ECCS. The licensee, as part of its proposal for TS changes to allow use of ZIRLO™, has addressed ECCS performance for Vogtle Units 1 and 2. The licensee's analyses demonstrate adequate ECCS performance with the two fuel assemblies clad with ZIRLO™ in the reactor core. Thus, the licensee achieved the underlying purpose of 10 CFR 50.46 and 10 CFR 50, appendix K.

The purpose of 10 CFR 50.44 is to ensure that a means is provided for the control of hydrogen gas that may be generated following a postulated loss-of-coolant accident (LOCA). The licensee has previously addressed hydrogen generation following a LOCA. The licensee's proposed use of ZIRLO™ cladding has no significant effect on the previous assessment of hydrogen gas production. Thus, the licensee has achieved the underlying purpose of 10 CFR 50.44.

The underlying purpose of 10 CFR 51.52 is to ensure adequate consideration of environmental effects of transportation of fuel and waste. Specifically, 10 CFR 51.52 requires a licensee's Environmental Report to include a statement of compliance to indicate, among other things, that the fuel pellets are encapsulated in Zircaloy rods. Alternatively, detailed analysis of the environmental effects of the transportation of the fuel to and from the site must be provided in accordance with 10 CFR 51.52(b). Since the chemical composition of the ZIRLO™ cladding is not significantly different from Zircaloy, the environmental effects of transporting ZIRLO™ will not be significantly different from the environmental effects of transporting Zircaloy. Thus, a detailed analysis, in accordance with 10 CFR 51.52(b), is not necessary for ZIRLO™ to achieve the underlying purpose of 10 CFR 51.52.

The fuel assemblies with some fuel rods clad with ZIRLO™ meet the same design bases as the existing fuel with all Zircaloy cladding. No safety limits have been changed or setpoints altered as a result of the use of these altered fuel assemblies. The ZIRLO™ claddings have been tested for corrosion resistance, tensile and burst strength, and creep characteristics. The results indicate that this cladding is safe for reactor service.

IV

For the foregoing reasons, the NRC staff has concluded that the use of the two fuel assemblies, each containing up to 12 fuel rods clad with ZIRLO™, will not present an undue risk to public health and safety if used in the Vogtle Units 1 and 2 reactors. Such use is consistent with the common defense and security. The NRC staff has determined that there are special circumstances present as specified in 10 CFR 50.12(a)(2) such that application of 10 CFR 50.46, appendix K to 10 CFR 50, 10 CFR 50.44, and 10 CFR 51.52 is not necessary in order to achieve the underlying purpose of these regulations.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12(a), an exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants Georgia Power Company exemption from the requirements of 10 CFR 50.46, appendix K to 10 CFR 50, 10

CFR 50.44, and 10 CFR 51.52 in that explicit consideration of the ZIRLO™ cladding for the two fuel assemblies is not required in order to be in compliance with these regulations. This exemption applies only for two fuel assemblies, each consisting of no more than twelve (12) fuel rods clad with ZIRLO™.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant adverse environmental impact (56 FR 49801).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 3rd day of October 1991.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–24473 Filed 10–9–91; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Revision of SF 61–B; Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), this notice announces the proposed revision of the SF 61–B, Declaration of Appointee, which was submitted to OMB for clearance. SF 61–B contains questions covering an appointee's history since the date of application and is completed before entering on duty so that the appointing officer can be sure the appointment or conversion-to-appointment conforms to the laws and regulations regarding appointment of relatives, suitability, and pay and benefits. Almost 600,000 forms are completed each year for all agencies: the form takes approximately 5 minutes to complete, for a total of 50,000 hours per year. For copies of this proposal, call C. Ronald Trueworthy, on (703) 908–8550.

DATE: Comments on this proposal should be received within 30 calendar days from date of this publication.

ADDRESS: Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carol E. Porter, (202) 606–1453.

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91–24505 Filed 10–9–91; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

Requests Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2142.

Upon written request, copies available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549–1002.

Extension

File No. 270–28, Rule 17f-1(b);
File No. 270–29, Rule 17f-1(c) and Form X–17F–1A; and
File No. 270–34, Rule 17f-2(a).

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval the following rules and forms under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*):

Rule 17f-1(b) (17 CFR 240.17f-1(b)), requires reporting institutions to register with the Commission or its designee to participate in the Lost and Stolen Securities Program. Approximately 600 respondents incur an estimated average of one-half burden hour annually to comply with this rule.

Rule 17f-1(c) (17 CFR 240.17f-1(c)), requires reporting institutions to report lost, stolen, missing and counterfeit securities to a centralized data base. Approximately 2,300 respondents incur an estimated average of 2.4 burden hours annually to comply with this rule.

Rule 17f-2(a) (17 CFR 240.17f-2(a)), requires that securities professionals be fingerprinted. Approximately 10,500 respondents incur an estimated average of 25 burden hours annually to comply with this rule.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated averge burden hours for compliance with Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 23, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–24466 Filed 10–9–91; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Filings, Information and Consumer Services, 450 Fifth Street, NW., Washington, DC 20549.

Extension

File No.	Rule/form
270–128	Rules 20(b), 20(c), 23, and 100(a) and Forms U–1 and U–A.
270–129	Rules 24 and 50.
270–169	Rules 29a, 29b and 72.
270–166	Rule 62, Form U-R-I.
270–79	Rules 93 and 94, Form U–13–60 and 17 CFR Part 256.
270–83	Rule 2, Form U–3A–2.
270–77	Rule 3, Form U–3A3–1.
270–74	Rule 95, Form U–13E–1.
270–75	Rules 7 and 7(d), Form U–7D.
270–168	Rules 1(a) and 1(b), Forms U5A and U5B.
270–163	Rule 42.
270–161	Rule 71(a), Forms U–12(I)–A and U–12(I)–B.
270–82	Rule 83.
270–80	Rule 88, Form U–13–1.
270–78	Rule 26.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval the following rules and forms under the Public Utility Holding Company Act of 1935 ("1935 Act").

The family of information requests related to Form U–1 provide a legally required record that enables a registered company to seek authorization from the Commission for proposed transactions. The 165 respondents each spend about 155 hours annually meeting the requirements of these information collections.

Rules 24 and 50 require the filing with the Commission of certain information indicating that an authorized transaction has been carried out in accordance with the terms and conditions of the Commission order. The rules impose a burden of about 520 hours annually on approximately 275 respondents.

Rules 29 and 72 require the filing of copies of reports submitted by a registered holding company or its subsidiary companies to stockholders or

reports submitted to state commissions covering operations not reported to the Federal Energy Regulatory Commission. The rule imposes an annual burden of ¼ hour on each of 76 companies.

Rule 62 prohibits the solicitation of authorization regarding any security of a regulated company in connection with reorganization subject to Commission approval or regarding any transaction which is the subject of an application or declaration, except pursuant to a declaration regarding the solicitation which has become effective. The rule and form U–R–1 imposes a burden of 50 hours on 50 hours on 10 companies.

Rules 93 and 94, Form U–13–60, and 17 CFR part 256 require a uniform system of accounts for mutual and subsidiary service companies. The annual burden imposed on the 13 companies subject to this requirement is 150 hours.

Rule 2 permits a public utility holding company to claim exemption from the 1935 Act by filing an annual statement on Form U–3A–2. The rule and form impose a total annual burden of 248 hours on 124 companies.

Rule 3 permits a bank which is also a public utility holding company to claim exemption from the 1935 Act by filing an annual statement on Form U–3A3–1. The Commission receives four filings from banks annually, taking about two hours to complete imposing a total annual burden of eight hours.

Rule 95 requires service companies to file reports on form U–13E–1 with the Commission prior to performing under contracts for registered holding companies or their subsidiaries, for services, construction, or the sale of goods. One company meets this requirement annually, at an estimated average burden of 2 hours.

Form U–7D establishes the filing company's right to the exemption authorized for financing entities holding title to utility assets leased to a utility company. The form imposes a total burden of 126 hours on 42 respondents.

Rules 1(a) and 1(b) and Forms U5A and U5B implement section 5(a) of the 1935 Act which requires the filing of a notification of registration with the Commission of any holding company or any person proposing to become a holding company. Since no new holding companies have registered recently, there is no burden.

Rule 42 prohibits registered holding companies or subsidiaries thereof from acquiring, retiring or redeeming securities of which it is the issuer unless authorized by the Commission. Thirteen companies are each required to spend one hour annually on this requirement.

Rule 71 and Forms U–12–(I)–A and U–12–(I)–B implement Section 12(i) of the 1935 Act which make it unlawful for any person employed or retained by a regulated company to prevent, advocate, or oppose any matter affecting a regulated company before Congress, the Commission, or the Federal Energy Regulatory Commission unless such person files a statement with the Commission. These information collections impose an annual burden of about 191 hours on 764 respondents.

Rule 83 enables regulated subsidiaries, when dealing with foreign affiliates, to seek exemption from certain provisions of the 1935 Act. There have been no filings under his rule in recent years.

Rule 88 requires the filing of Form U–13–1 for a mutual or subsidiary service company performing services for affiliate companies of a holding company system. Four respondents spend a total of approximately eight hours annually meeting this requirement.

Rule 26 sets forth the financial statement and recordkeeping requirements for registered holding companies and subsidiaries. The total annual burden is one hour.

The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and Gary Waxman, Clearance Officer, Office of Management and Budget, room 3208 NEOB, Washington, DC 20503.

Dated: October 4, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–24467 Filed 10–9–91; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Plymouth Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in 5(d)(2) (B) and (H) of the home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Plymouth Federal Savings Association, Plymouth, Massachusetts, on September 26, 1991.

Dated: October 4, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–24367 Filed 10–9–91; 8:45 am]

BILLING CODE 6720–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Midwest Stock Exchange, Inc., Findings and Order Granting Application for Unlisted Trading Privileges in Six Over-the-Counter Issues

October 2, 1991.

On August 16, 1991, the Midwest Stock Exchange, Inc. ("MSE") submitted an application for unlisted trading privileges ("UTP") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") securities, *i.e.*, securities not registered under section 12(b) of the Act:

File No.	Symbol	Issuer
7–7152	CHIR	Chiron Corp., Common Stock, $.01 par value.
7–7153	CNTO	Centocor, Inc., Common Stock, $.01 par value.
7–7154	CSCO	Cisco Systems, Inc., Common Stock, no par value.
7–7155	ICOS	Icos Corp., Common Stock, $.01 par value.
7–7156	SNPX	Synoptics Communications, Inc., Common Stock, $.01 par value.
7–7157	XOMA	Xoma Corporation, Common Stock, $.0005 par Value.

The above-referenced issues are being applied for as an expansion of the exchange's program in which OTC securities are being traded pursuant to a grant of UTP.

The Commission published notice of the application in Securities Exchange Act Release No. 29607 (August 26, 1991), 56 FR 43639, but did not receive any comments.

In considering an application for extension of UTP to OTC securities under section 12(f)(1)(C), the Commission is required to consider, among other matters, the public trading activity in the securities, the character of that trading, the impact of an extension of UTP on the existing markets for the securities, and the desirability of removing impediments to

and the progress that has been made toward the development of a National Market System. The Commission believes that granting the MSE's application for UTP is consistent with the maintenance of fair and orderly markets and the protection of investors. Transactions in the subject securities, regardless of the market in which they occur, will be reported in the consolidated transaction reporting system established under a joint transaction reporting plan between the MSE and the National Association of Securities Dealers.[1] The availability of last-sale information for the subject securities should contribute to pricing efficiency and to assuring that transactions on the MSE are executed at prices that are reasonably related to those occurring in the OTC market.

For these reasons, the MSE's application for UTP in the above-named securities is approved pursuant to Section 12(f) of the Act.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30–3(a)(2).

Jonathan G. Katz,

Secretary.

[FR Doc. 91–24468 Filed 10–9–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–29780; File No. OCD–91–2]

Self-Regulatory Organizations; the Options Clearing Corporation; Order Approving Supplement to Options Disclosure Document Regarding Cross-Rate Foreign Currency Options

October 2, 1991.

On June 3, 1991, the Options Clearing Corporation ("OCC"), in conjunction with the Philadelphia Stock Exchange, Inc. ("PHLX"), submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Rule 9b–1 of the Securities Exchange Act of 1934 ("Act"),[1] preliminary copies of a Supplement to the Options Disclosure Document ("ODD") which describes the characteristics and risks of trading in the PHLX's new cross-rate foreign currency options.[2] Five definitive copies of the Supplement were delivered on September 30, 1991.

The proposed Supplement to the ODD provides for disclosure to accommodate the PHLX's cross-rate currency options proposal which has been submitted to the Commission separately.[3] This Supplement, which is to be read in conjunction with the more general ODD entitled "Characteristics and Risks of Standardized Options," describes, among other things, the special characteristics, features and risks of cross-rate foreign currency options. Pursuant to Rule 9b–1, the Supplement will they engage in any cross-rate options transactions or their orders for cross-rate options are accepted.

The Commission has reviewed the ODD Supplement and finds that it complies with Rule 9b–1. The Supplement is intended to be read in conjunction with the ODD, which discusses the characteristics and risks of foreign currency options generally. The Supplement provides additional information regarding cross-rate options contracts sufficient to describe the special characteristics and risks of these products.

Rule 9b–1 provides that an options market must file five copies of amendments to a disclosure document with the Commission at least 30 days prior to the date definitive copies are furnished to customers unless the Commission determines otherwise having due regard to the adequacy of the information disclosed and the protection of investors.[4] Because preliminary copies of amendments to the disclosure document were filed more than 30 days before definitive copies were distributed to the public, the Supplement was filed with the Commission in a timely manner.[5] Regardless of the timing of filing of the Supplement, the Commission believes it is consistent with the public interest and the protection of investors to allow distribution of the Supplement as of October 1, 1991. Specifically, the Commission believes that, because the proposed amendments provide adequate disclosure of the special characteristics, features, and risks of trading in cross-rate foreign currency options, thereby helping to ensure that only customers capable of understanding and bearing the risks of trading in cross-rate foreign currency options engage in such trading activity, it is consistent with the public interest for it to be distributed to investors before the October 4 commencement of cross-rate options trading on the Philadelphia Stock Exchange.

It is therefore ordered, pursuant to Rule 9b–1 of the Act,[6] that the proposed Supplement to the ODD to accommodate the PHLX's proposed trading of cross-rate currency options is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. 91–24399 Filed 10–9–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–29782; File No. SR–PHLX–91–19]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Increasing the Number of Strike Prices Eligible for Automatic Execution Over AUTOM

October 3, 1991.

I. Introduction

On June 20, 1991, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to expand the automatic execution ("Auto-X") feature of the Exchange's Automated Options Market ("AUTOM") system, a pilot program, to include all strike prices for all expiration months.

The proposed rule change was published for comment in Securities Exchange Act Release No. 29413 (July 8, 1991), 56 FR 32459 (July 16 1991). No comments were received on the proposed rule change.

II. Description of AUTOM

The AUTOM system is an online system that allows electronic delivery of options orders from member firms directly to the appropriate specialist on the Phlx options trading floor, with

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[1] *See* Securities Exchange Act Release No. 24407 (April 29, 1987), 52 FR 17349. One precondition to the grant of OTC/UTP to exchanges was the development of a joint transaction reporting plan to accommodate OTC/UTP.

[1] 17 CFR 240.9b–1 (1990).

[2] See letters from James C. Young, Assistant Vice President and Deputy General Counsel, OCC, to Brandon Becker, Division of Market Regulation, SEC, dated June 3 and August 30, 1991.

[3] SR–PHLX–90–12, Securities Exchange Act Release No. 28737 (January 3, 1991).

[4] This provision is intended to permit the Commission either to accelerate or extend the time period in which definitive copies of a disclosure document may be distributed to the public.

[5] The final form of the Supplement was filed with the Commission on September 30, 1991. The changes to the Supplement made between the filing of the preliminary copies and the definitive copies did not materially alter the Supplement, so that the Commission believes the preliminary copies satisfy the 30 requirement.

[6] 17 CFR 240.9b–1 (1990).

[7] 17 CFR 200.30–3(a)(39) (1990).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1990).

electronic confirmation of order executions.[3]

Specifically, once AUTOM orders are entered into the system and routed to the specialists' post, they are executed manually by the specialist who, upon execution of the order, enters the relevant trade information into the system. An execution report is then automatically transmitted to the firm that placed the order.

The AUTOM system also has an automatic executions feature called "Auto-X." Currently, Auto-X is available only to single customer market and marketable limit orders of up to 10 contracts in at-the-money options, and options at one price interval above or below the at-the-money option (*i.e.*, three strike prices) in all expiration months. The Phlx current proposal will extend the availability of Auto-X to all strike prices in all expiration months. For orders eligible for automatic execution through AUTOM, they are: (1) Printed in hard copy form at the floor representative booth of the delivering member organization; (2) displayed on the trading crowd screen with buy/sell information omitted; and (3) printed in hard copy form at the specialist post. The order is priced and executed automatically at the best displayed bid or offer, and the execution is reported automatically to the Options Price Reporting Authority ("OPRA"). A report of the execution also is electronically sent to the delivering member organization. Under Auto-X, the specialist is the contra-side of all trades. However, the specialist is required to ensure participation of bids and offers on the limit order book and in the trading crowd that are entitled to execution pursuant to the Phlx's rules of priority, parity, and precedence.

III. Description of the Proposal

The proposal will extend the availability of the Auto-X feature of AUTOM to include all strike prices for all expiration months. Eligibility for Auto-X presently is limited to single customer market and marketable limit orders of up to ten contracts in at-the-money options and options at one price interval above or below the at-the-money price.

The Exchange believes that expanding the types of orders eligible for Auto-X will increase order flow through AUTOM, thus benefiting more Exchange customers and firms. The Exchange also believes that making all strike prices eligible for Auto-X, as opposed to only the three most at-the-money strikes, is consistent with AUTOM's goal of improving order routing and execution efficiency.

IV. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 and section 11a.[4] The Commission continues to believe that the development and implementation of the AUTOM system provides for more efficient handling and reporting of orders in Phlx equity options through the use of new data processing and communications techniques, thereby improving order processing and turnaround time. The Commission also believes that extending the eligibility of Auto-X to all strike prices should increase overall AUTOM order flow and extend the system's benefits, such as increased order routing efficiencies, to more Phlx member firms and customers. In addition, increasing the types of orders eligible for Auto-X should enable the Exchange to assess better the effectiveness of the AUTOM system.

Finally, the Commission believes, based on representations by the Exchange, that extending the eligibility of Auto-X to all strike prices will not expose the PHLX's options markets or equity markets to risk of failure or operational break-down. In particular, the Exchange represents that the AUTOM system will be able to handle the increased volume that should accompany the expansion of the strike prices eligible for Auto-X.[5] Further, since the AUTOM system is completely independent from the Phlx's Philadelphia Stock Exchange Automated Communication and Execution ("PACE") system for routing and executing stock orders, neither AUTOM nor PACE should impact on the other during periods of high volume. Moreover, the Exchange represents that, in the event of unusually heavy order traffic, it does not envision that any problems will occur with the adequacy of specialist unit personnel to integrate orders resting on the limit order book into Auto-X orders to ensure the maintenance of book priority.[6]

It Is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (SR–PHLX–91–19) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 91–24398 Filed 10–9–91; 8:45 am]

BILLING CODE 8010–01–M

[3] The Commission approved AUTOM on a pilot basis on March 31, 1988, for market orders of up to five contracts for all exercise prices in the near month covering twelve Phlx equity options. See Securities Exchange Act Release No. 25540 (March 31, 1988), 53 FR 11390 (April 6, 1988). Since then, the order routing feature of AUTOM has been expanded to include all orders in all exercise prices and months in all Phlx equity options, day orders have become eligible for delivery through the system, and the eligible order size for the order routing feature of AUTOM has been increased from ten (10) to one hundred (100) contracts. See Securities Exchange Act Release No. 28643 (November 26, 1990), 55 FR 49960 (December 3, 1990), at notes 2–6 for citations to Commission orders approving these expansions of the AUTOM pilot.

[4] 15 U.S.C. 78f and 78k–1 (1988).

[5] Letter from Matthew C. Schmidt, President, Financial Automation Corporation of Philadelphia, to Thomas Gira, Branch Chief, Division of Market Regulation, SEC, dated August 8, 1991. Specifically, the Phlx represents that AUTOM's capacity is 48,000 orders for a six-hour forty minute trading day, although the system has been initially configured to handle 10,000 orders per day. The Phlx also represents that the system currently is processing 1,000 orders per day.

[6] Conversation between William Uchimoto, General Counsel, Phlx, and Monica Michelizzi, Staff Attorney, Division of Market Regulation, SEC, August 29, 1991.

[7] 15 U.S.C. 78s(b)(2) (1988).

[8] 17 CFR 200.30–3(a)(12) (1990).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

New Air Transportation Opportunities (U.S.-Mexico)

During consultations in September 1991, the Governments of the United States and Mexico agreed, *ad referendum*, to amend the 1960 bilateral Air Transport Agreement, previously amended in September 1988. As described more fully below, the new agreement provides for, among other things, a modified route description for both combination and all-cargo services, and two additional designation opportunities for all-cargo services.[1] Because of these changes we are inviting new applications to provide U.S.-Mexico all-cargo services and notifying incumbent carriers of procedures we intend to follow regarding their combination service certificates.

[1] Until the agreement is formalized, the countries have agreed to apply its terms on the basis of comity and reciprocity. In the meantime, the effectiveness of the 1960 Air Transport Agreement, as amended September 23, 1988, has been extended until March 23, 1992.

All Cargo Services

The 1991 amended agreement replaces the city-specific all-cargo route provided for in the September 1988 amendments with the following route:

From a point or points in the United States to a point or points in Mexico.

Under the new arrangement, the United States may designate up to five airlines to provide all-cargo services between the U.S. and Mexico on the above route subject to the condition that no more than one U.S. carrier is authorized on any given city-pair segment.[2] Prior to the amendments, the United States could designate up to three airlines to provide all-cargo services. Amerijet International, Federal Express, and United Parcel Service are currently authorized to serve U.S.-Mexico routes.[3] Thus, the United States has the opportunity to designate two additional all-cargo carriers to serve between the two countries.

In view of these new route opportunities, we invite all U.S. carriers interested in providing all-cargo service in the U.S.-Mexico market to file applications for certificate and/or exemption authority to serve the markets above no later than October 21, 1991. Competing applications and answers shall be due no later than October 28, 1991, and responsive pleadings no later than November 4, 1991. Carriers that currently hold all-cargo authority to serve Mexico may also file applications to serve additional city-pair markets under the new agreement in accordance with the above dates.

Except as modified above, certificate applications should be filed pursuant to subpart Q of part 302 of the Department's regulations; exemption applications should be filed pursuant to subpart D of part 302. Applications should be filed with the Department's Docket Section, room 4107, 400 Seventh Street, SW., Washington, DC 20590. As the route rights are limited, and consistent with our policy with respect to U.S.-Mexico certificate authority, we intend to award certificate authority at issue in the form of 5-year, temporary, experimental certificates under section 401(d)(8) of the Act. To the extent that mutually exclusive applications are filed, procedures for acting on the applications filed shall be established by future Department order. Where application are not mutually exclusive, we will proceed to process applications expeditiously under our normal procedures.

Combination Services

Pursuant to the *ad referendum* agreement, the geographic, city-specific route schedule for combination services has been replaced by the following three routes:

1.a. From a point or points in the United States to a point or points in Mexico.

1.b. From Dallas/Ft. Worth and San Antonio to Mexico City/Toluca and Acapulco, and beyond to points in Panama and beyond.

1.c. From New York, Washington/Baltimore, Los Angeles, and Houston to Mexico City/Toluca and beyond to a point or points in Central and/or South America.

As under the previous agreement, only one U.S. carrier may serve each city-pair market on a route, except for markets for which the countries have agreed to additional designations.[4] In addition, the agreement replaces the geographically linked route integration provisions to enable carriers to combine in any order their services on authorized routes (without regard to the region restrictions in the September 1988 agreement).

We intend to incorporate this new operating flexibility into U.S. carrier certificates *sua sponte*. Thus, incumbent carriers need not file applications to amend their U.S.-Mexico certificates in order to exercise the new route integration provisions. By Order 91–4–25, we proposed to revoke dormant U.S.-Mexico certificate authority and to reissue and/or amend non-dormant authority to include dormancy conditions and commingling and coteminalization provisions as contained in U.S.-Mexico certificates issued pursuant to the amended September 1988 U.S.-Mexico aviation agreement. In view of the revisions made by the 1991 *ad referendum* agreement, we will instead include the latest route integration provisions in our final order which we expect to issue soon.[5]

Dated: October 7, 1991.

Paul L. Gretch,

Director, Office of International Aviation.

[FR Doc. 91–24485 Filed 10–0–91; 8:45 am]

BILLING CODE 4910–62–M

[2] The United States and Mexico have agreed to permit double designation on the Miami-Mexico City/Toluca city-pair route.

[3] Amerijet currently holds authority to serve the Miami-Merida/Mexico City and Oakland-Mexico City/Guadalajara markets. Federal Express currently holds authority to serve the Harlingen-Mexico City/Guadalajara/Monterrey markets and the Miami/Memphis-Mexico City markets. UPS currently holds authority to serve the Houston-Mexico City/Guadalajara/Monterrey markets.

[4] Over the past three years, the United States and Mexico have agreed to double designation in numerous city-pair markets as described in the 1991 *ad referendum* amendments.

[5] Although in Order 91–4–25 we proposed no action with respect to the U.S.-Mexico certificate of Alaska Airlines, Inc., we intend to amend Alaska's certificate in our final order in this matter to afford Alaska the same routing flexibility that will be reflected in the other U.S. carrier certificates.

DEPARTMENT OF THE TREASURY

[Department Circular—Public Debt Series—No. 31–91]

Treasury Notes of October 15, 1998, Series H–1998

Washington, October 3, 1991.

1. Invitation for Tenders

1.1 The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $9,250,000,000 of United States securities, designated Treasury Notes of October 15, 1998, Series H–1998 (CUSIP No. 912827 C6 7), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated October 15, 1991, and will accrue interest from the date, payable on a semiannual basis on April 15, 1992, and each subsequent 6 months on October 15 and April 15 through the date that the principal becomes payable. They will mature October 15, 1998, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2 The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public

monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in a minimum amount of $1,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, Wednesday, October 9, 1991, prior to 12 noon, Eastern Daylight Saving time, for noncompetitive tenders and prior to 1 p.m., Eastern Daylight Saving time, for competitive tenders. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, October 8, 1991, and received no later than Tuesday, October 15, 1991.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of competitive tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of competitive tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a 1/8 of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Tuesday, October 15, 1991. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, October 10, 1991. When payment has been submitted with the tender and the purchase price of the notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3 Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in

TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 91-24615 Filed 10-8-91; 1:38 pm]

BILLING CODE 4810-40-M

Office of Thrift Supervision

Arcanum Federal Savings Association Arcanum, Ohio; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Arcanum Federal Savings Association, Arcanum, Ohio ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on September 20, 1991.

Dated: October 4, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24369 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

Eastern Federal Savings and Loan Association of Sayville, Sayville, NY; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Eastern Federal Savings and Loan Association of Sayville, Sayville, New York (OTS No. 3671), on September 27, 1991.

Dated: October 4, 1991

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24371 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings, F.S.B. Dallas, GA; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subsection (F) of 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First Federal Savings, F.S.B., Dallas, Georgia ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on September 27, 1991.

Dated: October 2, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24370 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings and Loan Association of Beaumont; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section in 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings and Loan Association of Beaumont, Beaumont, Texas (OTS No. 0028), on September 26, 1991.

Dated: October 4, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24372 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings and Loan Association of Andalusia, F.A., Andalusia, AL; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First Federal Savings and Loan Association of Andalusia, F.A., Andalusia, Alabama ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on September 27, 1991.

Dated: October 2, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24373 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings Association of Toledo; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First Federal Savings Association of Toledo, Toledo, Ohio ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on September 27, 1991.

Dated: October 4, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24374 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

Gold River Savings Bank, Fair Oaks, CA; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as as sole Receiver for Gold River Savings Bank, Fair Oaks, California, OTS No. 8224, on September 26, 1991.

Dated: October 4, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24375 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

Home Federal Savings and Loan Association of Harlan; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Home Federal Savings and Loan Association

of Harlan, Harlan, Iowa, (OTS No. 2896), on September 26, 1991.

Dated: October 4, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24376 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

Nutley Savings Bank, SLA; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Nutley Savings Bank, SLA, Nutley, New Jersey, OTS No. 2264, on September 27, 1991.

Dated: October 4, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24377 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

Plymouth Federal Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Plymouth Federal Savings Bank, Plymouth, Massachusetts, OTS Number 3487, on September 26, 1991.

Dated: October 4, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24378 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

Preferred Savings Bank, F.S.B., High Point, NC; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Preferred Savings Bank, F.S.B., High Point, North Carolina ("Assocation"), with the Resolution Trust Corporation as sole Receiver for the Association on September 27, 1992.

Dated: October 2, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24379 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

San Jacinto Savings Association, F.A.; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (f) of 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for San Jacinto Savings Association, F.A., Bellaire, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on September 27, 1991.

Dated: October 4, 1991

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24380 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

Santa Paula Savings and Loan Assoc., Santa Paula, CA; Appointment of Receiver

Notice is hereby given that, pursuant to the Authority contained in 5 (d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Santa Paula Savings and Loan Association, Santa Paula, California, OTS Docket No. 0437, on September 26, 1991.

Dated: October 4, 1991

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24381 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

Superior Federal Savings Assoc.; Notice of Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5 (d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Superior Federal Savings Association, Cleveland, Ohio ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on September 27, 1991.

Dated: October 4, 1991.

By the Office of Thrift Supervision

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24382 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

[AC-46; OTS No. 1788]

Century Federal Savings and Loan Association, Pasadena, California: Final Action; Approval of Conversion Application

Notice is hereby given that on September 20, 1991, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of Century Federal Savings and Loan Association, Pasadena, California for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Western Regional Office, Office of Thrift Supervision, 580 California Street, San Francisco, California 94120.

Dated: September 27, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-24368 Filed 10-9-91; 8:45 am]

BILLING CODE 6720-01-M

UNITED STATES INFORMATION AGENCY

Title: University Affiliations Program: Application Notice for Fiscal Year 1992

AGENCY: United States Information Agency.

ACTION: Notice—request for proposals.

SUMMARY: The Bureau of Educational and Cultural Affairs of the United States Information Agency announces a program of support for institutional partnerships between U.S. and foreign colleges and universities. The University Affiliations Program seeks to promote institutional relationships through grants for the exchange of faculty and staff for a period of three years. Participating institutions should be prepared to exchange faculty and staff for teaching, lecturing, and research assignments of one month or longer (preferably three months or one semester); maintain their faculty on full salary and benefits; and receive visiting faculty from the partner institution. USIA grant funds, not to exceed $125,000, can be used to defray expenses for travel and per diem. A

modest amount of the grant total can be allocated for educational materials and communications expenses.

Proposals will be accepted either to establish new affiliations or to allow for innovations and strengthening of existing affiliations not previously funded by the University Affiliations Program. Proposals for technical or development assistance projects and feasibility studies to plan affiliations will not be considered. Research proposals must include collaboration by researchers from both institutions and be linked to substantial participation in graduate-level seminars.

The competition, as described in separate geographic area programs, is limited to selected countries and academic disciplines which represent USIA's geographic and academic priorities for the University Affiliations Program. Subject to the availability of funds, approximately 20–25 grants will be awarded for Fiscal Year 1992.

U.S. institutions are responsible for the submission of proposals and should collaborate with their foreign partners in planning and preparing proposals.

DATES: Deadline for proposals: Proposals must be received at the U.S. Information Agency by 5 p.m. EST on February 14, 1992. Proposals received by the Agency after this deadline will not be eligible for consideration. Faxed documents will not be accepted, nor will documents be accepted which are postmarked on February 14, 1992 but received at a later date. It is the responsibility of each grant applicant to ensure that their proposal is received by the above deadline. Grants should begin September 1, 1992.

ADDRESS: The original and fifteen complete copies of the proposal, including required forms, should be submitted by the deadline to: U.S. Information Agency, Ref.: University Affiliations Program, Office of the Executive Director, E/X, room 336, 301 4th St., SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: For general information and requests for application packets, which include all necessary forms and guidelines for preparing budgets, interested institutions should contact: Ms. Aleta Wenger or Ms. Camille Barone, University Affiliations Program, Office of Academic Programs, (202) 619–5289.

For information regarding specific geographic areas, please contact:

Africa—Dr. Ellen Berelson, Academic Exchange Programs Division, Africa Branch, Office of Academic Programs, (202) 619–5355.

American Republics: Ms. Debra Shetler, Academic Exchange Programs Division, American Republics Branch, Office of Academic Programs, (202) 619–5365.

East Asia/Pacific—Ms. Marian Davis, Academic Exchange Programs Division, East Asia and the Pacific Branch, Office of Academic Programs, (202) 619–5402.

Europe—Mr. Ted Kniker, Academic Exchange Programs Division, Europe Branch, Office of Academic Programs, (202) 619–4420.

Near East/South Asia—Mr. Michael Graham, Academic Exchange Programs Division, Near East/South Asia Branch, Office of Academic Programs, (202) 619–6864.

SUPPLEMENTARY INFORMATION

Overview

Authority for the University Affiliations Program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256 (Fulbright-Hays Act). The Fulbright Program seeks to increase mutual understanding between the people of the United States and people of other countries. USIA strives to accomplish this goal by promoting affiliations between U.S. and foreign institutions of higher education.

Pursuant to the Bureau's authorizing legislation, programs, must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life.

Guidelines

Eligibility: In the U.S., participation in the program is limited to accredited four-year colleges and universities, including graduate schools and consortia of universities; overseas, participation is limited to recognized degree-granting institutions of higher education and internationally recognized and highly regarded independent research institutes. Proposals from a consortium may be submitted by a member institution with authority to represent the consortium. Participants traveling under USIA grant support must be U.S. citizens (representing the U.S. institution); and (representing the foreign institution) citizens, nationals, or permanent residents of the country of the foreign partner, who are qualified to hold a valid passport.

Proposed Budget: A comprehensive line item budget should be submitted with the proposal by the deadline. Specific guidelines for budget preparation are available in the application packet.

Note: Grants awarded to eligible institutions with fewer than four years' experience in conducting international exchange programs will be limited to $60,000. Budget submissions from these institutions should not exceed this amount.

Geographic Area Programs

Africa—The program will accept proposals for linkages with all sub-Saharan countries, with priority given to proposals for Botswana, Ghana, Kenya, Nigeria, Senegal, South Africa, Tanzania, and Zimbabwe. Eligible academic disciplines are limited to the social sciences, humanities, and the arts. Possible fields include but are not limited to anthropology, archaeology, *American studies, African studies/African-American studies, economics, law, language and linguistics, literature, political science, public policy, and sociology and demography. In addition, the program encourages proposals in architecture and urban planning, museum management and conservation, parks management, and historic conservation.

American Republics—Eligible countries and academic field are: Argentina (economics); Bolivia (business administration, museum studies with emphasis on historic-prehistoric conservation); Colombia (*American studies, comparative law, educational planning and administration, environmental studies and resource management); Ecuador (economics, historic preservation, art conservation); Peru (comparative law, educational planning and administration, environmental studies and resource management, museum studies); Uruguay (economics); Mexico (economics, fine and performing arts, library and information sciences).

Central America—The program will consider proposals for linkages with Central American countries in the following fields: comparative law, environmental studies and resource management, and museum studies with emphasis on historic-prehistoric conservation.

Caribbean—The program will accept proposals for linkages with any of the following Caribbean countries: Bahamas, Barbados, the Dominican Republic, Haiti, Jamaica, and Trinidad and Tobago. Caribbean linkages may, however, include a single department on more than one campus of the University of the West Indies. Eligible fields are: Fine and performing arts, historic conservation, and journalism.

East Asia/Pacific—The program will accept proposals for linkages with the following countries: Fiji, Malaysia, Papua New Guinea, Philippines, and

Thailand. Eligible academic disciplines include: Economics (with emphasis on international economics and economic development), business administration (with emphasis on marketing and international business).

Proposal objectives could include projects to encourage cooperation between public and private institutions, including internships and sponsored research.

This program supports the Asia Pacific Economic Cooperation (APEC) "Partnership for Education" Initiative, which was announced by Secretary of State Baker in July 1990. The Secretary's Initiative is part of APEC's human resource development focused on strengthening economic ties in the Asia-Pacific region.

Europe—The program will accept proposals for the following countries in Eastern and Central Europe: Albania, Bulgaria, Czech and Slovak Federal Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, the Soviet Union, and Yugoslavia. Proposals should focus on one, two or three of the following disciplines: [1] American studies; business administration (with preference for marketing, finance, accounting, industrial relations); communications; economics; public affairs and public policy analysis; and sociology. In addition, the program encourages proposals in architecture and urban planning, museum management and conservation, parks management, and historic conservation.

In Western Europe, proposals may be submitted for Malta and Sweden. Proposals should focus on one, two or three of the following disciplines: [1] American studies, business administration, communications, economics, history, political science, and sociology.

The Agency will accept proposals for projects with the European Community countries (Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, and the United Kingdom) that focus on the processes of economic and political integration. Projects must have a research component.

The Agency also invites proposals for three-way projects linking an institution in the U.S. with one in Western Europe, and both of them with an Eastern European institution in one of the following countries: Bulgaria, Czech and Slovak Federal Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, or Yugoslavia. Eligible fields are business administration (marketing, finance, accounting, industrial relations), economics, environmental studies, and sociology.

Near East/South Asia—The program will accept proposals for linkages with the following (priorities are italicized): *Algeria,* Bahrain, *Bangladesh,* Egypt, India, Israel, Jordan, Kuwait, Mauritania, *Morocco,* Nepal, Oman, *Pakistan,* Qatar, Saudi Arabia, Sri Lanka, Sudan, *Syrian Arab Republic, Tunisia,* United Arab Emirates, the West Bank, and Yemen. Eligible academic disciplines are: Islamic civilization and [1] American studies, business administration, communications, economics, language and linguistics, literature, political science, and public policy. In addition, the program encourages proposals in architecture and urban planning, museum management and conservation, parks management, and historic conservation.

N.B. All proposals for India must be accompanied by proof of approval of the proposed program by the Government of India. U.S. institutions are advised to contact Indian partner institutions about this requirement as early as possible, since review processes of Indian government ministries do not coincide with the USIA program deadline. Indian government approval must be sought through the Executive Director, U.S. Educational Foundation in India, 12 Hailey Road, New Delhi, India 110001. Tel. 3329449. Cable USEFL.

Application Requirements—Proposals must be submitted within the deadline and conform to the selected countries and academic fields identified under the geographic area programs. The proposal package should include one original and fifteen complete copies and all required documentation. Proposals should be presented as follows:

1. *A cover sheet* with names of both institutions, name of foreign country, project directors with their addresses, telephone and fax numbers, and academic field(s) of proposal. A sample cover sheet format is included in the application packet.

2. *A brief abstract* of proposed project.

3. *A narrative* of approximately twenty double-spaced pages, including descriptions of institutions and participating academic departments or schools; a detailed description of the proposed affiliation program, including names and qualifications of designated project directors; a statement of need for the proposed program; a detailed description of proposed activities, including who will travel, when, where, and how activities will occur for each of the three years; anticipated benefits of the program to participating institutions; and a plan for institutional evaluation of the project.

4. *A comprehensive line item budget* outlining specific expenditures and sources from which funds are anticipated. Detailed information concerning eligible and ineligible items and required budget format is available in the application packet.

5. *Documentation of institutional support* for the proposed linkage, including signed letters of endorsement from the U.S. and foreign institutions' presidents, chancellors, or directors making specific reference to the 1992 University Affiliations Program and committing their participating institution(s) to maintaining their exchange participants on full salary and benefits during the exchange. A general letter of support or an agreement between the two institutions without reference to the maintenance of salaries and benefits will not fulfill this requirement. A sample letter of endorsement and commitment is included in the application packet.

6. *Brief academic resumes* of potential participants for both institutions, clearly indicating level of language skills, overseas experience, knowledge of prospective partner country, relevant scholarly and non-scholarly travel, publications, and research activities.

Review Process

The University Affiliations Program review process is conducted in three stages: technical, academic, and Agency. Proposals will be deemed ineligible if they do not adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to outside academic panels for advisory review. All proposals recommended for funding will be reviewed in the Agency by the appropriate Academic Exchange Programs branch, the appropriate geographic area office, the budget and contracts offices, and the Office of the General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Upon completion of the technical review, applicants will be notified in writing of the status of their proposals. A grace period will be granted to applicants whose proposals lack either

[1] Note: American studies includes the fields of American history, literature, civilization, sociology, and the arts.

[1] Note: American studies includes the fields of American history, literature, civilization, sociology, and the arts.

of the following documents. The deadline for submission of these documents is 5 p.m. EST on March 2, 1992.

(1) A signed letter of endorsement from the president, chancellor, or director of the foreign institution, making specific reference to the 1992 University Affiliations Program and committing the institution to maintaining their exchange participants on full salary and benefits during the exchange.

(2) For proposals for linkages with India, documentation of approval of the proposed program by the Government of India.

Review Criteria

Academic Review Criteria—Proposals are reviewed by independent academic peer panels with geographic and discipline expertise which make recommendations to the Agency based on the following criteria:

1. Soundness of proposal indicating academic quality, as reflected by a clear statement of program goals and means to accomplish the goals, and detailed description of project with statement of how the proposed project will be implemented and evaluated. If the proposal requests support for an established, active linkage, evidence that the University Affiliations funding would result in innovation in the exchange relationship;

2. Promise of the production of new skills/knowledge and advancement of scholarship in fields covered by the program;

3. Evidence that theme(s) of proposed project fits field(s) stated in the announcement;

4. Evidence of strong mutual benefits to the institutions involved in the exchanges;

5. Feasibility of the program plan as it relates to the stated goals and selected topics and activities;

6. Academic quality of credentials/experience of participants in relation to the goals of the proposed exchange plan (including linguistic proficiency, where required);

7. Appropriateness of length of exchange visits given project goals;

8. Evidence of strong institutional commitment by participating institutions;

9. Evidence of mutual advancement of cultural and political understanding of the countries or geographic areas represented in the partnership through development of individual and institutional ties;

10. Demonstration that the partnership is likely to continue after the expiration of the USIA grant.

Agency Review Criteria—USIA will consider for further review only those proposals recommended by academic review panels. Agency considerations will be based on:

1. Academic quality, reflected in academic review panels' comments and recommendations;

2. Feasibility of program plan;

3. Advancement of mutual cultural and political understanding between the countries or geographic areas represented in the partnership;

4. USIA overseas post assessments of need and feasibility;

5. Promise of long-term impact;

6. Cost-effectiveness.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about July 1, 1992. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: September 19, 1991.

William P. Glade,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 91-24433 Filed 10-9-91; 8:45 am]

BILLING CODE 8230-01-M

U.S. Advisory Commission on Public Diplomacy Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on October 9 in room 600, 301 4th Street, SW., Washington DC from 10 a.m. to 12:30 p.m.

At 10 a.m. the Commission will meet with Ms. Martha Johnston, Director, Office of Congressional liaison and Mr. Stanley Silverman, Comptroller, USIA, regarding Congressional relations and USIA's budget legislation. At 10:30 a.m. the Honorable Eugene P. Kopp, USIA Deputy Director, will discuss Agency management issues. At 11:15 a.m. the Commission will meet with Mr. J. Nicholas Elam, Head of the Cultural Relations Department, British Foreign and Commonwealth Office, to discuss U.S. and British cultural programs. At 12 p.m. Mr. Richard Werksman, Associate General Counsel, USIA, will brief the Commission on conflict of interest guidelines.

FOR FURTHER INFORMATION CONTACT: Please call Gloria Kalamets (202) 619-4468, if you are interested in attending the meeting since space is limited and entrance to the building is controlled.

Dated: October 4, 1991.

Rose Royal,

Management Analyst, Federal Register Liaison.

[FR Doc. 91-24434 Filed 10-8-91; 9:37 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 197
Thursday, October 10, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, October 16, 1991.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 8, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–24679 Filed 10–8–91: 3:55 pm]

BILLING CODE 6210–01–M

Corrections

Federal Register
Vol. 56, No. 197
Thursday, October 10, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

Correction

In notice document 91-1698 appearing on page 2896, in the issue of Thursday, January 25, 1991, in the third column, in the file line at the end of the document, "FR Doc. 91-1648" should read "FR Doc. 91-1698".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

Technology Administration

15 CFR Parts 19, 1160, and 1170

[Docket No. 910774-1174]

Productivity, Technology and Innovative Strategic Partnership Initiative

Correction

In rule document 91-19790 beginning on page 41281, in the issue of Tuesday, August 20, 1991, make the following corrections:

1. On the same page, in the second column, in the 21st line "supplies" should read "suppliers".

2. On the same page, in the same column, in the 1st full paragraph, in the 18th line "critically" should read "criticality".

§ 1160.21 [Corrected]

3. On page 41282, in the 2d column, in § 1160.21(a), in the 12th line "compromised" should read "comprised".

§ 1160.22 [Corrected]

4. On the same page, in the same column, in § 1160.22(a), in the 18th line following "consortia" insert "which are composed primarily of competitors who cooperate".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Teleconference Meeting

Correction

In notice document 91-2233 appearing on page 3824 in the issue of Thursday, January 31, 1991, in the second column, in the file line at the end of the document, "FR Doc. 91-2223" should read "FR Doc. 91-2233".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26433; Amendment No. 91-225]

RIN 2120-AD96

Transition to an All Stage 3 Fleet Operating in the 48 Contiguous United States and the District of Columbia

Correction

In rule document 91-2?950 beginning on page 48628 in the issue of Wednesday, September 25, 1991, make the following correction:

§ 91.869 [Corrected]

On page 48659, in the third column in § 91.869(a), in the fifth line, "December 3, 1996" should read "December 31, 1996".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 161

[Docket No. 26432]

RIN 2120-AD98

Notice and Approval of Airport Noise and Access Restrictions

Correction

In rule document 91-22951 beginning on page 48661 in the issue of Wednesday, September 25, 1991, make the following corrections:

1. On page 48662, in the second column, in the first paragraph, in the the third line from the bottom, "national" was misspelled.

2. On the same page, in the 3rd column, in the 1st full paragraph, in the 17th line, "considered" was misspelled, and in the 23rd line, "cumulative" was misspelled.

3. On page 48664, in the first column, in the first full paragraph, in the fourth line, "specific" was misspelled.

4. On page 48670, in the 1st column, in the first full paragraph, in the tenth line, after "Further" insert a ",".

5. On page 48673, in the second column, in the fourth full paragraph, in the seventh line, "sufficiently" was misspelled.

6. On page 48674, in the 2nd column, in the 1st full paragraph, in the 19th line, "restriction" was misspelled.

7. On page 48675, in the 2nd column, in the 22nd line, "Michigan;:" should read "Michigan;".

8. On page 48676, in the third column, in the third full paragraph, in the next to last line, "benefits" was misspelled.

9. On page 48678, in the second column, in the first full paragraph, in the last line, "requirements." should read "requirements?"

10. On page 48679, in the first column, in the first full paragraph, in the next to last line, "system" should read "systems".

11. On page 48682, in the second column, under *Section 161.305*, in the first paragraph, in the fourth line, "finding," should read "findings,".

12. On the same page, in the third column, in the second full paragraph, in the last line, "analyses" should read "analysis".

13. On page 48683, in the first column, in the second full paragraph, in the third line, "Joe," should read "Jose,".

14. On page 48685:

a. In the 1st column, in the 1st full paragraph, in the 15th line, "11" should read "all".

b. In the second column, in the heading *Section 161.317*, in the second line, ""*Approval*" should read "*Approval*".

c. In the third column, in the second full paragraph, in the fourth line, "restriction." should read "restriction?"

15. On page 48686, in the first column, in the second line, "this" should read "the".

16. On page 48687:

a. In the first column, in the third full paragraph, "*Response:*" was misspelled.

b. In the last paragraph, in the third line, "regardings" should read "regarding".

c. In the third column, in the second full paragraph, in the next to last line, "ba" should read "be".

d. In the third full paragraph, in the fifth line, "Groups" should read "Group".

17. On page 48688, in the third column, in the fourth line, "agreement" was misspelled.

18. On page 48689, in the third column, in the second line, "under" was misspelled.

19. On page 48690:

a. In the first column, in the ninth line, "qqq" should be removed.

b. In the 1st full paragraph, in the 24th line, "restriction" should read "restriction's".

c. In the last paragraph, in the fifth line, "section" was misspelled.

d. In the third column, in the last paragraph, in the last line, "derer" should read "defer".

20. On page 48693, in the third column, in the seventh line, "a or" should read "or a".

21. On page 48694, in the first column, in the last paragraph, in the next to last line, after "rule" insert a "."

22. On page 48695, in the first column, in the first full paragraph, in the ninth line, "to" should read "the".

a. In the second column, in the first full paragraph, ""up" should read "up".

23. On page 48696, in the third column, in the second full paragraph, in the next to last line, "grant" was misspelled.

24. On page 48697, in the second column, in the eighth line, in the heading, "*Approval*" was misspelled.

25. On page 48698, in the first column, in the last paragraph, in the fourth line from the bottom, remove the quotation marks in front of "amount".

PART 161—[CORRECTED]

26. On page 48699, in the first column, in the table of contents, in 161.413, "eevaluation" should read "Reevaluation".

§ 161.103 [Corrected]

27. On page 48701, in the first column, in § 161.103(b), in the third line, "delineated:" should read "delineated;".

§ 161.403 [Corrected]

28. On page 48707, in the third column, in § 161.403(d), in the sixth line, "requesting" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[FI-88-86]

RIN 1545-AJ35

Real Estate Mortgage Investment Conduits

Correction

In proposed rule document 91-22853 beginning on page 49526 in the issue of Monday, September 30, 1991, make the following corrections:

1. On page 49527, in the 2d column, under **Proposed Effective Dates**, in the 11th, 17th and 18th lines, "November 12, 1991" should read "September 27, 1991".

§ 1.860A-1 [Corrected]

2. On page 49535, in the second column, in § 1.860A-1(b)(2)(i), in the seventh and eighth lines, "November 12, 1991" should read "September 27, 1991"; and in paragraph (b)(2)(ii), in the eighth line, "November 12, 1991" should read "September 27, 1991".

BILLING CODE 1505-01-D

federal register

Thursday
October 10, 1991

Part II

Department of Agriculture

Forest Service

Recreation Residence Authorization; Notice

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596-AB06

Recreation Residence Authorizations

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed policy; request for comment.

SUMMARY: In response to an administrative appeal decision by the Assistant Secretary of Agriculture for Natural Resources and Environment, the Forest Service proposes to adopt revised policies and procedures for administering special use permits that authorize privately-owned recreation residences on National Forest System lands. The proposal would revise earlier policy provisions that: (1) Required the showing of a higher public purpose when not renewing term permits, (2) required automatic permit renewal unless nonrenewal has been established, (3) required the offering of "in-lieu" lots to permittees who have received notice of nonrenewal, and (4) were weighted against consideration of commercial uses of sites occupied by recreation residences. This notice also revises portions of the policy subsequently affected by a revision in the Secretary of Agriculture's Administrative Appeal Regulations governing authorizations for occupancy and use of National Forest System lands and clarifies portions of the policy concerning determination of annual rental fees. Public comments are invited and will be considered in adoption of a final policy.

DATES: Comments must be received in writing by January 8, 1991.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2720), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

FOR FURTHER INFORMATION CONTACT: Questions about this proposed policy should be addressed to J. Kenneth Myers, Lands Staff, (202) 205-1248.

SUPPLEMENTARY INFORMATION: On August 16, 1988 (53 FR 30924), the Forest Service adopted a final policy and procedures for administering special use permits that authorize privately-owned recreation residences on National Forest System lands. The policy established a new procedure for calculating annual fees and gave direction on tenure and renewability of the permits, describing procedures to be followed when the residence site was needed for a higher public purpose.

This policy was appealed to the Secretary of Agriculture on September 15, 1988. In general, the appellants alleged that the process by which this policy was developed was flawed in that provisions of the policy exceeded statutory limitations on recreation residence use of the National Forests and that the appellants and the public were adversely affected by the policy.

In a decision dated February 15, 1989, the Assistant Secretary of Agriculture for Natural Resources and Environment remanded the policy to the Forest Service for restudy and reformulation and stayed the implementation of certain provisions of the 1988 policy as follows: (1) Those nonrenewal provisions relating to or requiring a showing of higher public purpose where the lands occupied were deemed needed for other than recreation residences; (2) those provisions requiring automatic permit renewal 10 years prior to expiration unless nonrenewal had been established; (3) those provisions requiring the offering of "in-lieu" lots to permittees who had received notice of nonrenewal or termination; and (4) those provisions weighted against consideration of commercial uses for sites when nonrenewal of the recreation use was contemplated. In addition, the Assistant Secretary required that the remaining features of the final policy be designated as interim policy pending its reformulation following all applicable process requirements. The reformulation period was established by the decision as 18 months.

The policy adopted August 18, 1988, was issued as direction to Forest Service personnel through amendments and interim directives to Forest Service Manual (FSM) Chapters 2340 and 2720 and Forest Service Handbook (FSH) 2709.11—Special Uses Handbook. On June 1, 1989, at 54 FR 23499, the Forest Service gave notice that the direction in FSM 2340 and 2720 had been revised to remove those provisions stayed by the Assistant Secretary and that the remaining portions of the policy were designated as interim policy in compliance with the Assistant Secretary's decision.

On September 20, 1989, in response to the Assistant Secretary's decision, the Forest Service gave notice that it was seeking comments on an Advance Notice of Proposed Policy (54 FR 38700). A 60-day comment period was provided which was extended an additional 60 days, expiring on January 19, 1990. In this notice, the agency described alternative approaches to those portions of the policy stayed by the Assistant Secretary's decision and asked for public advice and comment on those provisions and on the options that the agency identified to replace the current policy provisions. The public comment received on that notice has been considered in the development of a proposed reformulated policy which is the subject of this notice. The Assistant Secretary's decision also expressed concern about other provisions of the policy such as fee determination. Appropriate clarifying and explanatory material addressing these provisions is included in this notice of proposed policy.

Analysis of Public Comment

The Forest Service received 18,642 comments on the September 20, 1989, advance notice of proposed policy. The number and percentage of responses by category of respondent is as follows:

Respondent	Number	Percentage
Permittee	7,242	39
Friend or Family of Permittee	7,543	40
Permittee Association	65	(1)
Appellants Views	6	(1)
Forest Service Personnel	14	(1)
Other	3,772	20
Total	18,642	100

[1] Less than 1 percent.

Included in the total under "Other" where 350 responses addressed to the Secretary of Agriculture that were duplicates of comment letters to the Chief of the Forest Service or that asked the Secretary to overturn the Assistant Secretary's appeal decision.

During the comment period, the National Forest Recreation Association, Homeowners Division, and the National Inholders Association jointly developed and sent to their membership a letter transmitting a questionnaire form to be used in responding to the notice. The form contained 20 statements regarding the recreation residence policy to which the respondent could agree or disagree. The statements were general in nature, describing a premise or belief of what the content of reformulated policy should be. For example, Statement 4 of the questionnaire reads: "When making any nonrenewal decision, it is necessary that a complete, separate, self-contained analysis be made, using NEPA and Forest Service analysis procedures like those in the August, 1988 policy." None of the 20 statements specifically addressed the options in the **Federal Register** notice. The transmitted letter urged permittees to copy the response form and provide it to family members, friends and guests with a request to respond individually.

The agency received 16,338 questionnaire responses—88 per cent of

the total. This included 1,146 forms with attached letters containing narrative comments about the policy. Comments were received from 49 States, Puerto Rico, and the District of Columbia. Sixty percent of the responses were from California. Over 900 responses, mostly the questionnaires, were received after the January 19 comment period closing date. Since the comment period had already been extended, these were not considered in the response analysis.

The vast majority of the responses, including the questionnaire forms, did not specifically address the options identified in the **Federal Register** notice. They offered general comments indicating support or non-support of the recreation residence policy or provided opinion on the reformulation process. Many permittee respondents provided testimonials documenting the type and number of users accommodated by the recreation residence. These views were helpful in identifying those issues important to the respondents. Of the 18,642 responses received during the comment period, 337 addressed 1 or more of the options identified in the notice. A summary of the general comments received and a response to them are addressed first, followed by a summary of specific comments received on the options shown for specific provisions of the policy.

General Comments

Several respondents on both sides of the issue of recreation residence use felt that a **Federal Register** notice was not the proper vehicle to notify the public, particularly those parties that have a direct interest in the issue. They felt that the lack of individual notification was an attempt by the agency to deal exclusively with the opposing side and that they felt excluded from the decisionmaking process by not receiving their own copy of the notice. In determining the distribution of the **Federal Register** notice, the agency considered the complexity of the issue in the context of the appeal, the appeal decision, and the Advance Notice of Proposed Policy conveyed by the notice. It was believed that mailing the notice to the two National permittee organizations requesting that they in turn contact the permittees with an interpretation and explanation of the policy would provide a more informed permittee response. The notice was also mailed to the spokespersons for the appellants with a request that it be made known to those who had signed the appeal letters. Other interested parties and the general public were advised of the notice only through the **Federal Register** because this means of public notice has widespread circulation and meet Federal legal notice requirements. The agency recognizes that many of those who commented did so without having the notice containing the options to the 1988 policy.

A general theme among permittee comments was that the agency, through the revision to the policy, was seeking to remove recreation residences from the National Forests, and that permittees are concerned over the need to continually defend their permits. Many felt the Assistant Secretary erred in his appeal decision and that the August 1988 policy did not violate statutory authority and should be restored intact.

Response by the permittee associations requested that all "principles and provisions" of the 1988 policy be continued in the revised policy since the earlier policy provided a more uniform decision-making process and was developed through mutual cooperation and concession between the Forest Service and permittees. These views reflect the fact that recreation residence use on the National Forests has been under debate for several years. The adoption in 1988 of a final policy was widely believed to have resolved the matter. While permittee disappointment in the appeal decision is understandable, it should be noted that the decision to review and reformulate the 1988 policy did not reject most of the basic tenets of that policy and should not be viewed as a rejection of all of the 1988 policy. The fact that the policy continues in place, albeit on an interim basis, serves as an indication that there is no effort to remove recreation residences from the National Forests. However, it must be understood by permittees that the Assistant Secretary's recognition of the appellants' concerns and his decision regarding certain provisions of the 1988 policy preserve a fundamental right of the public to challenge decisions and actions of a Federal agency.

In comments on the advance notice, permittees pointed out the importance of the recreation residence use on the National Forests, describing how the cabins are used by a large segment of the public, generating income for the Treasury, and providing a recreation opportunity in the National Forests for those unable to use public facilities, particularly the elderly and handicapped. Permittees and their supporters stated that they contributed to the stewardship of the public lands by acting as volunteers, serving as guardians over the forests, picking up litter, helping lost hikers, etc. The agency agrees with these views and points out that the provision in the 1988 policy that "recreation residences are a valid use of the National Forests System land and an important component of the total National Forest recreation program" remains intact in the following proposed reformulation of that policy. The beneficial contribution that these permittees make to the management and protection of the National Forests is fully recognized.

Respondents opposed to recreation residence use expressed the view that since these residences are located in pristine National Forest areas, their presence intimidates and may exclude the general public from the use and enjoyment of the areas. These respondents stated that the rationale which supported the enactment of the legislation authorizing this use in the early part of this century is no longer relevant in today's world with the increasing demands placed on public lands. They felt that the land devoted to this use could be better utilized if it were available to the general public. Opponents of the policy also interpreted the information contained in the notice as giving preferential treatment to recreation residence use over other valid forest uses and offering "protective treatment of permittees' interests." In one particular provision of the policy, opponents felt the offering of in-lieu sites to those permittees who receive notice that a site is needed for another public use should be removed from the policy. These respondents stated that if additional cabin sites are available, current permittees should be the last to be offered them, since they had already experienced the "privilege" of owning a cabin on National Forest land.

The general comments by these respondents restate several of the concerns expressed by the appellants in the appeal of the 1988 policy. They suggest that the Forest Service should move towards eliminating this use by requiring decisions on renewal of permits to be subjected to a "higher public use" test, essentially one that when the general public and the residence use conflict, use by the general public will be the deciding factor. The result would be a phasing out over time of recreation residences and restoring the land to use by the general public.

Whether recreation residence use should continue to be permitted on National Forest lands is not the issue addressed in this notice. The Assistant Secretary's appeal decision did not challenge the appropriateness or continuation of the use. Rather, it

focused on legal sufficiency of the process used to adopt the policy and on certain provisions of that policy. It is that process and those provisions that were the subject of the September 1989 notice and form the basis for the following draft policy.

Recreation residences have been a permitted use on the National Forest for over 75 years. Since that time, there have been many changes in laws affecting National Forest System lands. A comprehensive planning system now guides management of the National Forests. Value of the recreation residences has increased dramatically. During this same period, Forest Service administration of these permits has been limited and variable. The August 1988 policy sought to provide uniform, even-handed, and consistent direction rather than make major changes. Despite the agency's intent, that national direction was viewed by some to be overly favorable to recreation residence permittees and led to administrative appeals.

The reformulation of the recreation residence policy responds solely to the specific provisions identified as flawed in the Assistant Secretary's appeal decision. The agency is not seeking to redirect, rebuild, or otherwise change the broad national direction stated in the earlier policy and which was not debated in the appeal decision.

Comments On and Response to Options Identified in the Advance Notice

The September 20, 1989, **Federal Register** notice requested public comments on provisions of the policy that had been stayed by the Assistant Secretary's appeal decision (55 FR 38700). A complete description of these provisions and explanation of the Assistant Secretary's appeal decision relating to them can be found on page 38701 of the September 20 notice. Briefly, the stayed policy provisions are: (1) Use of the term "higher public purpose" in considering renewal of the term permit; (2) Issuance of 20-year term permits with renewal every 10 years; (3) Offering of in-lieu sites to permittees who have been informed their existing permits will not be renewed; and (4) Discrimination against commercial uses of recreation residence sites in determining whether the permit should be renewed.

There were 337 letters directed to one or more of the options offered in the notice. Nearly 70 percent of these respondents identified themselves as permittees. Many respondents offered comments on policy provisions that were not stayed by the appeal decision. This notice is directed only to the reformulation of those provisions specifically mentioned in the appeal decision. Except where noted in this notice, no action has been taken to modify other provisions. In response to the various options, some respondents indicated they preferred no change to the original policy. This was not an option since the appeal decision found that provision to be flawed and required revision. Thus, comments recommending no change were not considered in the agency's response to public comments on each option.

An analysis of the public comments on specific provisions of the policy in response to the September 1989 notice and the agency's response to them follows. In presenting options to the stayed provisions of the 1988 policy and inviting comment, the agency presented the 1988 policy and options sequentially by each of the four directives that were involved. This approach allowed reviewers to make a line-by-line comparison. However, for the purposes of this proposed policy, the policy revisions are organized by discussion topic, and all elements or segments of the four directives that bear on the topic are discussed. This allows readers an integrated view in one place of the policies and implementing procedures on each topic.

1. Validity of Recreation Residence Use

The 1988 policy at FSM 2721.23a, Paragraph 11, read as follows:

> Recreation residences are a valid use of National Forest System lands and an important component of the total National Forest recreation program. Recreation residences may represent a substantial investment and have the potential of supporting a large number of recreation person-days per acre compared with other uses. Therefore, when considering nonrenewal of recreation residence permits for an alternative use, be sure the clear weight of the evidence is on the side of the need for the higher public purpose or use at the location.

The options offered in the 1989 advance notice were:

A. Remove the provision.

B. Recreation residences are a valid use of National Forest land and a component of the total recreation program.

C. Recreation residences are a component of the total National Forest recreation program. Recreation residences may represent a substantial investment and have the potential of supporting a large number of recreation person-days per acre. Therefore, when considering nonrenewal of recreation residence permits because of an alternate use, consider all factors given in FSH 2709.11, § 41.23b before denying renewal of the permit.

Comments: Over 88 percent of those responding to these options favored Option C. Those favoring removal of this provision (option A) did so because they felt this provision was "not direction but a biased statement favoring continuing permits." Conversely, those opposing Option A considered removal of this direction drastic and that it would render the policy on renewal of recreation residence permits devoid of any policy statement concerning the propriety of recreation residence uses. Many respondents opposed all of the options on the basis that they did not conform to the goals of this section of the policy; namely, to state the validity, importance, and justification for the existence of recreation residences.

Response: The Forest Service believes that recreation residences are a valid and important use of the National Forests. The Assistant Secretary's decision did not question the validity of recreation residences, but called for "balanced consideration" of the need and role of such residences with other uses. The agency believes it is appropriate and good public policy to recognize the role that recreation residences play in the total forest recreation program and to ensure that renewal decisions give adequate consideration to their continuation. Readers should note that a nearly identical statement appears in existing FSM 2347.1, paragraph 1. The provision was also placed in FSM 2721.23 in the original policy to ensure that recreation residence use of National Forest land was appropriately recognized when considering renewal of the term permit. However, as noted earlier, this redundancy violates agency directive policy and standards. Therefore, in the proposed policy this provision appears only in section 2347.1. However, a cross reference to FSM 2347.1 has been added to ensure that permit administration complies with the board policy in FSM 2347.1.

2. Conformity to the 1915 Term Permit Act

The 1988 policy at FSM 2721.23e, paragraph 2, read as follows:

> Ensure that continuance of recreation residence uses conforms with the Act of March 4, 1915, authorizing issuance of term special use permits for summer homes.

The option offered was to replace this provision with the following: "Ensure that recreation residences do not preclude the general public from full enjoyment of the natural, scenic,

recreational, and other aspects of the National Forest as stipulated in the Act of March 4, 1915."

Comments: Over 80 percent of the respondents opposed this option, stating that the issue it addresses was not a part of the appeal decision. The agency does not agree. The appeal decision directs the agency to "re-examine provisions relating to tenure, to assure compliance with the Act of 1915 * * *" Others objected to the wording of the option, stating that it makes recreation residences a disfavored use of the National Forest which is not consistent with the 1915 Act. It should be noted that the words in the option identified by the respondents as objectionable are those found in the 1915 Act. Eleven respondents favored the option, including one who felt it should be placed in the policy section—FSM 2347.03.

Response: This provision is essential because it is a fundamental statement of policy that guides not only permit continuance, which is the subject of FSM 2721.23e, but administration of existing permits as well. The Act of March 4, 1915, authorizes the Secretary of Agriculture to permit the use and occupancy of National Forest land for recreation residences and prescribes the conditions under which those permits may be issued. As such, it provides the general guidance when considering reissuance of recreation residence term permits, including the requirement that the use and occupancy be exercised in a manner "as not to preclude the general public from full enjoyment of the natural, scenic, recreational, and other aspects of the National Forests." Moreover, the wording of the option clarifies and adds emphasis to the original statutory direction on permit reissuance. Accordingly, the agency proposes to adopt the option and proposes to place it in the basic policy section—FSM 2347.03, as paragraph 2.

3. Determination of Permit Renewal and Nonrenewal

a. *Manual.* FSM 2721.23e, paragraph 3, of the 1988 policy read as follows:

> Base nonrenewal decisions on the extent of the need for higher public use of the site. Higher public use or purpose refers to a higher priority use of the site by the public that is timely, clearly in public demand, and where other sites to satisfy the need cannot reasonably be made available. In meeting public needs, give consideration to alternatives such as (a) availability of sites other than recreation residence sites to satisfy the public need, (b) feasibility of common, shared, or multiple uses that include recreation residences, and (c) increased feasibility of common or shared use through adjustment of site and tract size, configuration or boundaries, or location of improvements.

The option offered was to replace paragraph 3 with the following: "Base nonrenewal decisions on the need for alternative uses of the site as determined in the forest plan or by other analysis. Continuing recreation residence use/nonrenewal decisions will consider alternatives such as (a) availability of sites other than recreation residence sites to satisfy the public need, (b) feasibility of common, shared, or multiple uses that include recreation residences, and (c) increased feasibility of common or shared use through adjustment of site and tract size, configuration or boundaries, or location of improvements."

Comments: Sixty-five percent of those responding opposed this option, commenting that the option's wording was too vague and that they preferred the original language. The respondents suggested that the original language allows the authorizing officer to look at and plan for future needs. Many of those favoring the option objected to the use of "alternative" in place of "higher" public use. One respondent suggested that restoration of the site to its original condition and nondevelopment may be an appropriate higher public use for a particular site and the provision should reflect this. Another suggested modification to require consistency with the National Forest plan. Those commenting on the third sentence of the paragraph felt there was little difference between the original and optional language, several saying that the option was "another example of change for change's sake."

Responses did not separate into permittee and nonpermittee categories commonly found in the other options. The term " higher public purpose" was favored by both recreation residence permittees and those opposed to the use, but for different reasons. Permittees feel that their use is a higher use when compared to other uses; opponents feel recreation residence use is an exclusive private use and any use by the general public has a higher value. On the other hand, the term "alternative public use" found favor among respondents on both sides of the issue. Permittees who favored the term did so because agreement on what is "higher" would be difficult and controversial. Those favoring the term considered it neutral and accurate language more appropriate when considering renewal/nonrenewal questions.

Response: This section of the policy and the associated option provide the initial opportunity to address some new concepts that are reflected in the reformulation of this and following policy provisions. These include the issues of higher public purpose, the analysis to support renewal/nonrenewal decisions, and the application of the National Environmental Policy Act to these decisions.

Resolution of the issue of higher public purpose must reflect the Assistant Secretary's finding that the rigorous standard for a finding of a "higher public purpose * * * arbitrarily discriminates against other lawful uses of the forests." That finding stated further: "Permittee renewal rights should not be deemed superior to other uses, but must be found to be consistent with other planned uses of the forest each time permitted rights are considered." The decision clearly viewed the "higher public use" standard, particularly the listed alternatives, as unreasonably biased in favor of the permittee.

The need to make the permit renewal/nonrenewal decision a neutral process leads the agency to adopt the term "alternative public use." It satisfies the direction in the appeal decision. The revised proposed provision appears as paragraph 2, FSM 2721.23e.

The agency agrees that the proposed revision of the third sentence of this provision of the 1988 policy provides little substantive change and acknowledges that its purpose was to achieve consistency with proposed revisions elsewhere in the policy. The three alternatives listed in this sentence are considered valid and thus the option is adopted. Because it is considered to be procedural direction this sentence has been moved to FSH 2709.11, section 41.23.

The next key concept addresses the analyses to support renewal/nonrenewal decisions. The language in the option emphasizing the Forest plan as the basis for converting a recreation residence site to an alternative public use represents a major departure from the 1988 policy. The 1988 policy provided that permit renewal/nonrenewal decisions should be "coordinated" with the Forest plan in the permit decision process (FSM 2721.23e, paragraph 4). Thus, the policy relied on a process for evaluating recreation residence continuance separate from the overall planning for the National Forest's land and resources.

Because the agency must by law, rely on the integrated, interdisciplinary forest planning process to make the land allocation decisions for each National Forest, the agency must change the original policy that relied on separate

analyses and decisions for recreation residence continuance. Instead, it is proposing that, as with all other allocation decisions, the decision to allocate areas of the National Forest to recreation residence use be incorporated into the Forest planning process.

Allocation of land for specific uses in the Forest plan occurs through delineation of management areas and associated management area prescriptions with standards and guidelines. The recreation residence use may be determined to be an appropriate use of the land and provided for explicitly in Forest plans. However, in most of the Forest plans now in effect, the use is implicit in management area prescriptions. Amendments or revisions of current plans will provide the opportunity to specifically address the recreation residence use. Since Forest plans are to be periodically revised, the proposed policy directs that the recreation residence use be explicitly addressed when this occurs. (Readers should note that most, if not all, Forest plans will be revised before the term permits issued as a result of the 1988 policy expire.) Once recreation residence use is included in the forest plan, then decisions on whether to renew permits or allow them to expire (thus replacing the use with an alternative public use) will be based on a determination of whether the recreation residences continue to be consistent with the Forest plan.

In addition to integrating the recreation residence use allocation into the forest planning process, there is an additional requirement for NEPA compliance that the agency must now meet. This requirement results from advice of Department of Agriculture legal counsel. A recent determination of the Council of Environmental Quality (54 FR 28477) held that a long-term authorization for private use of federally-owned resources that had not been subject to a previous NEPA analysis required NEPA documentation before reissuance. To meet this requirement, the proposed policy would require appropriate documentation of a decision to reissue recreation residence term permits when current Forest plan direction indicates the recreation residence use could continue.

Under the new proposed policy, the sequence of actions leading to a decision on permit renewal/nonrenewal would be as follows:

The Forest plan, either in its original form or as subsequently amended or revised, provides the basis for the recreation residence renewal/nonrenewal decision by allocating the National Forest land to various resources and uses. If the use of the land for recreation residences is consistent with the management direction set forth in the plan, then the use would continue. In this case, the decision would be categorically excluded from documentation in an environmental assessment or environmental impact statement. Under Agency policy at FSM 1950 and FSH 1909.15, the deciding officer would need to establish a project file and document the decision to continue the use in a Decision Memo. Agency experience in administering this use plus the fact that recreation residences have been in place for many years leads the Agency to conclude that continuing the use does not cause significant environmental effects requiring preparation of an environmental assessment or an environmental impact statement. Categorical exclusion would not be used when extraordinary circumstances are present on a recreation residence tract and continued use of the tract might have significant environmental effects. Such circumstances include the presence of threatened and endangered species or their critical habitat, flood plains, wetlands, archeological sites, or historic properties or areas.

(Reviewers should note that the Forest Service is currently revising its policy and procedures for complying with NEPA. A notice to this effect, along with proposed revisions to the Forest Service Manual chapter 1950 and the Environmental Policy and Procedures Handbook (FSH 1909.15), appeared in the **Federal Register** April 29, 1991 (56 FR 19718), with a request for public comment. The notice contains proposed revisions and new guidance specific to the use of categorical exclusions. The proposed revisions to the agency's recreation residence policy regarding renewal and nonrenewal of permits are presented in this notice with the assumption that the proposed revisions to the NEPA policy and procedures will be adopted. Any pertinent changes made to the NEPA policy upon its finalization will be reflected in the final recreation residence policy.)

If, as a result of Forest plan amendment or revision, recreation residence use is no longer consistent with the management direction in the plan, and the plan calls for an alternative public use to replace the recreation residence use, a project-level analysis would subsequently be made to analyze the change in use. This analysis is necessary because the Forest plan itself seldom has the level of detail and environmental analysis needed to implement site-specific decisions. This project analysis would include appropriate NEPA documentation and public involvement. The level of analysis required at the project level would depend on the level of specificity in the Forest plan. The analysis would examine all reasonable alternatives to accomplish the alternative public use, including one which would allow some of the recreation residences to remain. A decision based on this analysis would thus determine whether some or all of the recreation residence permits would be reissued for a term of up to 20 years or allowed to expire under their own terms.

The proposed revision to FSM 2721.23e, paragraph 4 of the 1988 policy appears in the proposed policy at 2721.23e, paragraphs 1 and 2.

The complete permit reissuance process appears in diagrammatic form as an exhibit following section 41.23b, FSH 2709.11.

b. *Handbook Direction.* Section 41.23 in the 1988 handbook guidance set forth the detailed procedures for determining continuation of recreation residence use. Section 41.23a provided guidance that would ensure compliance with requirements of NEPA, while section 41.23b set forth the minimum analysis requirements for nonrenewal actions.

This direction is the most directly affected by the Assistant Secretary's appeal decision and requires the most extensive revision. The basic difference between the original language and the offered options is that the former assumes the use would continue unless a higher public use could be demonstrated and the latter would require the use to be addressed in the Forest plan and the decision on renewal or nonrenewal would be based on a determination of whether the use is consistent with the direction in the Forest plan, essentially a neutral determination.

Comments. Responses by permittees to the several options in this section were uniformly opposed to any change in the original language. A prevalent view was that revision of this section would take away a fundamental right granted to permittees by the 1988 policy—that the present use would be continued unless a higher public purpose could be clearly demonstrated. Those with opposing views generally supported the process outlined by the options proposed in the section. Both sides of the issue strongly favored an analysis that complied with NEPA; however, most permittees did not believe that NEPA compliance was necessary for renewal of permits.

Response. Inasmuch as the agency is proposing an essentially new approach

to decisionmaking on recreation residence continuance, as proposed in FSM 2721.23e, a detailed analysis of the responses to the 18 options offered in the 1989 advance notice to this handbook direction is not presented in this notice. Readers are advised, however, that much of the original language of this section is retained although it may have been moved, edited for clarity, or revised to remove any apparent bias. For example, section 41.23b of the original policy required preparation of an environmental analysis, but only when nonrenewal of the permit was anticipated. The proposed revision calls for environmental documentation but differs from the 1988 policy in that such documentation would now be required for a decision for renewal or nonrenewal of the permit.

Proposed section 41.23 is organized into two parts. Paragraph a, entitled Use Consistent With Forest Plan, provides procedural direction applicable when the Forest plan indicates that recreation residence use is consistent with the management direction given in the Forest plan. Paragraph b, entitled Use Not Consistent With Forest Plan, presents the process to be followed when the use is contrary to the management direction in the Forest plan.

4. Permit Issuance and Term

a. *Manual.* Permit issuance and the term of the permit were addressed in FSM 2347.1 and FSM 2721.23a of the 1988 policy.

(1) Paragraph 5 of FSM 2347.1 in the 1988 policy read as follows:

> Issue 20-year term permits and renew them every 10 years unless need for a higher public use at the same location has been documented and established.

The options offered in the 1989 advance notice were:

A. Issue term permits for 30 years, the maximum period specified in the Act of March 4, 1915. Review permits every 5 years and update as necessary to make them consistent with changes in laws, regulations, and directives. Consider renewal of the permit two years prior to expiration. Reissue permit if consistent with the Forest Plan.

B. Issue 20-year term permits. Consider renewal at end of permit period. Reissue permit if consistent with the Forest Plan.

C. Issue 20-year term permits. Review in 10 years to determine whether or not the permit should be renewed upon expiration. If the determination is to renew, notify the permittee and, if that determination is consistent with the Forest plan, issue a new 20-year permit at the end of the permit term. If another need for the site has been established through the Forest planning process or is a need for the site is to be reviewed, new permits may be issued, at permit expiration, for a term of less than 20 years.

Comments: Option C was favored by most respondents, 3 times more than Options A and B combined. Of the 118 comments on this provision, 39 proposed modifications, most of which were directed to Option C. The principal modification to Option C proposed issuance of 20-year term permits with a review in 10 years to determine if the permit should be renewed at expiration of if the site should be converted to an alternative public use. Several respondents commented that the five-year review, outlined in Option A was substantial administrative burden. Many of the respondents stated the review process specified in Option A was too close to the end of the permit period and did not give permittees sufficient time to make alternate arrangements or prepare their own case for renewal. A few respondents stated that permits should not be renewed.

(2) FSM 2721.23a, Paragraph 9 of the 1988 policy read as follows: Issue recreation residence term permits for a maximum of 20 years.

a. Term permits shall provide for renewal of 20-year permits 10 years before expiration unless nonrenewal has been established.

b. At the end of the first 10 years after initial issuance, offer holders, in writing, new 20-year term permits that also include the provision for renewal and the end of 10 years, unless written notice of nonrenewal has been given.

c. Continue to renew term permits in this same manner unless holders are given notice of nonrenewal.

The options offered in the 1989 advance notice were:

A. Issue recreation residence term permits for a maximum of 30 years. Review permits every 5 years and update to make the permit consistent with changes in laws, regulations, and directives. At expiration new 30-year permits may be issued if consistent with forest planning.

B. Issue recreation residence term permits for a maximum of 20 years. At expiration, new 20-year permits may be issued if consistent with forest planning.

C. Issue recreation residence term permits for 20 years. Review permit at the end of 10 years to determine whether permit should be renewed; however, do not issue a new permit until the end of the permit term. New permits may be issued for a 20-year term or for a shorter period if another need for the site has been established through the Forest planning process or if a need for the site is being reviewed.

Comments: These provisions and the options to them are essentially identical to FSM 2347.1, paragraph 4. Response to the options was in the same proportions—most favored Option C and nearly all proposed the same modification.

Response to both FSM provisions: These two provisions, appearing in two separate titles of FSM, are at the core of the tenure issue identified in the appeal decision. Permittees seek a maximum term to amortize their investments in a recreation residence, to obtain peace of mind that their use will continue, and/or to increase the salability of the cabin. Opponents seek a shorter term and/or no opportunity for renewal. The 20-year term permit has been Forest Service policy since the 1915 Act was implemented. Tenure of this length is efficient and provides appropriate assurances to permittees while preserving the opportunity to recover the site if an alternative public need requires it. Further, there are no reasons dictated by general National Forest land management concerns or broader public policy not to provide opportunity for renewal of term permits.

The August 1988 policy added the provision requiring a renewal decision in the tenth year. The agency recognizes that this approach conveyed the impression of indefinite tenure. While the procedure described in the 1988 policy did not violate the 1915 Act because a definite period of occupancy was stated in the permit, there is no harm to modifying the policy itself to ensure that a definite tenure is stated. The agency also agrees that reviewing permits every 5 years would impose an unacceptable administrative burden.

Accordingly, the agency has reformulated the policy consistent with the suggestion by several respondents to provide that permits will be issued for a maximum of 20 years. Under this proposal, the Forest plan for each National Forest, in its original, amended, or revised form, would provide the guidance for a decision on whether recreation residence use should be continued and a new permit issued following expiration of the current permit or if the sites (lots) should be converted to another public use. Readers are referred to discussion topic 3—Determination of Permit Renewal and Nonrenewal—for more detailed information on the role of the Forest Plan and the process evolving from it that leads to permit renewal/

nonrenewal action. This revision would now appear as paragraph 3 of FSM 2347.1 and paragraph 9 of FSM 2721.21a.

5. Annual Fees in Event of Nonrenewal

a. *Manual.* There was no Manual material on this topic in the 1988 policy, fees in general were covered in FSM 2721.23d.

b. *Handbook Direction.* In the 1989 advance notice, three revisions to the 1988 Handbook provisions were proposed with options, as follows:

(1) FSH 2709.11, section 33.2 of the 1988 policy read as follows:

> When permits are placed on tenure (that is, the special use permit will not be renewed upon expiration), the annual fee for the tenth year prior to the expiration, referred to as the 'base on-tenure fee,' will be taken as a base and the fee for each year during the last ten years be one-tenth of the base multiplied by the number of years then remaining on the permit. For example, charge a holder with 9 years remaining, 90 percent of the frozen fee; with 8 years, 80 percent; and so forth. Use the following schedule to calculate the holder's fee during the 10-year period: (Schedule shows fees declining 10 percent per year).

The only option offered was to replace the preceding policy, including the schedule with the following: "When permits are placed on tenure (that is, the special use permit will not be renewed upon expiration), continue to collect the annual fee during the last 10-year period; do not adjust the fee during this period."

Comments: Most respondents opposed this option. Those who favored this option felt discounting the fees during the last 10 years when a permit is not to be renewed constituted a "giveaway" to permittees. These respondents also felt that discounting fees was an administrative burden. Those opposed felt that lowered or discounted fees would reflect fair market value. One respondent stated: "A declining fee is in full accordance with private market appraisal principles, OMB direction, and statutory authority."

Response: When a lessee places improvements on leased land, and the lessor notifies the lessee that the lease will not be renewed, it is common practice in the private real estate market to reduce fees in recognition that the value of improvements decline because of the reduced tenure. This practice allows a lessee to amortize the investment in improvements. Accordingly, the agency proposes to maintain this provision in FSH 2709.11, section 33.2 but has edited it for clarity.

(2) FSH 2709.11, section 33.2, numbered paragraph 1 of the 1988 policy read as follows:

> If a new 20-year term permit is issued, the Forest Service shall recover one-half of the sum of the amount of fees foregone while the previous permit was under nonrenewal notice. Collect this amount evenly over a 10-year period. The obligation will run with the site and be charged to a subsequent purchaser. The new fee shall be the annual index adjusted fee computed as though no limit on tenure existed, plus the amount specified above until paid in full.

Proposed Revision: In the September 1989 notice, no option was offered on this provision. The Assistant Secretary's appeal decision required that the agency re-analyze the recreation residence fee system. Discussion of the issues identified in the decision occur later in this supplementary information section of the notice. However, examination and reconsideration of the fee provisions of the policy required specific reconsideration of this provision.

The original provision was adopted on the basis that it was a standard practice in the private real estate market to recover only one-half of the fees foregone when an earlier decision to terminate a lease was reversed. Thus, this provision was felt to be acceptable in the context of a sound business management practice. However, during the process of reevaluating the fee structure, the agency reexamined this assumption and could no longer confirm that this is standard practice in the private real estate market. Therefore, the agency has revised this provision to require, when a nonrenewal decision is reversed and a new 20-year term permit is issued, full recovery of the fees foregone while a permit is under nonrenewal notice.

(3) FSH 2709.11, section 33.2, numbered paragraph 2 of the 1988 policy read as follows:

"If a 20-year term permit is not issued, and the occupancy of the subject site is to be allowed to continue for less than 10 years, do not recover past fees." Determine the new fee by:

a. Computation of the fee as if no nonrenewal notice was issued reduced by the appropriate percentage for the number of years of the extension (that is, a 6-year tenure period results in a fee equal to 60 percent of the base on-tenure fee).

b. If a site is allowed to continue past a 10-year period and is returned to a normal permit, the Forest Service shall recover fees as outlined in item 1, computed for the most recent 10-year period in which the term of the permit was limited.

The only option identified in the 1989 advance notice was to replace paragraphs 2a and 2b with the following: When a review of a nonrenewal decision shows that conditions have changed and these changes warrant continuation of the recreation residence permit, the new fee shall be the annual index-adjusted fee computed as though no limit on tenure existed. Also, charge the full fee for permits that are temporarily extended beyond the expiration date.

Comments: Most respondents opposed this option on the basis that pro-rated or discounted fees do reflect fair market value.

Response: This annual fee provision of the 1988 policy applies only when a holder has been notified that a permit will not be renewed but, as a result of a review made under the policy, that decision is reversed and an additional period of use of up to 10 years is granted. That policy did not require recovery of past fees foregone as a result of the nonrenewal decision and set a new fee schedule that reduced the fees during the limited term granted. The option would change this procedure and, while not requiring recovery of past fees foregone, would require that the full fee be paid during the additional term granted, regardless of the length of tenure. Since this provision of the 1988 policy is an extension of the policy to reduce fees when holders are informed the permit will not be renewed, the agency is maintaining the provision as adopted in 1988. The provision appears at FSM 2709.11, section 33.2, paragraphs 2 and 3, in the proposed policy.

6. Offering of In-Lieu Sites

a. *Manual.* In the 1988 policy, the direction on offering in-lieu sites was set forth at FSM 2347.1, FSM 2721.23a, and FSM 2721.23e.

(1) FSM 2347.1, paragraph 3 read as follows:

> Use every reasonable effort to provide in-lieu sites to holders who have received nonrenewal or termination notices (except termination for breach). For this purpose, sites within or adjacent to the National Forest containing the residences being terminated or under nonrenewal, including undeveloped or withdrawn sites, shall be available as in-lieu sites. New tracts may be established for recreation residence in-lieu sites at locations not needed in the foreseeable future for a higher public use. In-lieu sites should be comparable to the sites being recovered when possible, but make sure that holders are informed that the agency cannot guarantee that the available in-lieu sites will be entirely satisfactory. Do not establish new recreation residence tracts for any other purpose than the providing in-lieu sites.

The options offered in the 1989 advance notice of proposed policy were:

A. Holders who have received nonrenewal or termination notices (except termination for breach) may be offered an in-lieu site when sites are available in the same recreation tract and there is no other use for that site in the foreseeable future.

B. Holders who have received nonrenewal or termination notices (except termination for breach) may be offered an in-lieu site when sites are available in established tracts.

C. Same as the adopted (August 1988) policy, except revise the first sentence to read: "In-lieu sites may be made available to holders who have received nonrenewal or termination notices (except termination for breach)" and in the second sentence delete "shall" and substitute "may".

Comments: Of those responding on this provision, the largest number requested no change in the original language—an action not possible given the direction in the Assistant Secretary's appeal decision. The second largest number favored Option C. Other respondents were equally divided between Options A and B. Many expressed preference for one of the options if modified.

Several respondents felt all three options were flawed, but for the most part, those respondents opposed the offering of in-lieu lots. One respondent suggested a fourth alternative of no new tract or in-lieu sites. A frequent comment was that the options lacked clear standards and guidance which could result in arbitrary action by the Forest Service and create uncertainty for permit holders. Respondents also felt using the word "may" instead of "shall" would allow individual inconsistencies in application. Other respondents offered a revised option as follows: "Reasonable efforts will be made to provide in-lieu sites to holders who receive nonrenewal or termination notices."

Response: The offering of in-lieu sites in cases of termination or nonrenewal has been a part of Forest Service policy for many years. The agency has found it a useful means of accommodating expanded public use while allowing recreation residence use to continue. For example, in one case, cabins within a few feet of a remote scenic river were relocated onto in-lieu sites a few hundred feet back from the river to accommodate increased public access to the river and shoreline. Many residences have been in the same family for generations, and these holders have developed a strong emotional attachment to the cabin and the National Forest. When a permit cannot be renewed and the residence must be removed to accommodate another public use, the agency feels that the offer of an in-lieu site is appropriate. However, there is no guarantee that a site will be available or that the new site will be equivalent to the existing site.

An examination of the appeal decision reveals that it is the mandatory offering of in-lieu sites that is at issue. Further, upon reflection, the direction in this provision of the 1988 policy is in itself contradictory. The intent in the original policy was to provide discretionary authority to offer in-lieu sites when such sites were available. Use of the word "shall" in the second sentence gave the appearance to the contrary. It remains the intent to provide a discretionary authority. In this current proposal, the agency proposes to adopt a modified version of Option C. This version would maintain the intent of the original policy by making the offering of in-lieu sites discretionary by the authorized officer but limits the sites available to be offered to those within or adjacent to established recreation residence tracts or an to expansion of that tract on the same or adjacent National Forests. The previous direction that new tracts may be established for recreation residence purposes would be removed. This provision appears as paragraph 6 of FSM 2347.1 in the reformulated policy.

(2) FSM 2721.23a, paragraph 15 of the 1988 policy read as follows:

> In the event a recreation residence is destroyed or substantially damaged by a catastrophic event such as a flood, avalanche, or massive earth movement, conduct an environmental analysis to determine whether improvements on the site can be safely occupied in the future under Federal and State laws before issuing a permit to rebuild. Normally, the analysis should be completed within 6 months of such an event. Allow rebuilding if the site can be occupied safely. However, if the need for a higher public use at the same location has been documented and established, do not allow rebuilding if the improvements are more than 50 percent destroyed. If rebuilding is not authorized, make every reasonable effort to offer in-lieu sites to holders.

The options offered in the 1989 advance notice were:

A. Revise paragraph 15 as follows: "In the event a recreation residence is destroyed or substantially damaged by a catastrophic event such as a fire, flood, avalanche, or massive earth movement, conduct an analysis to determine whether improvements on the site can be safely occupied in the future under Federal and State laws before issuing a permit to rebuild. Normally, the analysis should be completed within 6 months of such an event. If consistent with the Forest plan, and within the permit term, allow rebuilding if the site can be occupied safely. However, if the need for an alternative public use at the same location has been determined do not allow rebuilding if the improvements are more than 50 percent destroyed."

B. Same as Option A except at the end add "If rebuilding is not authorized, available in-lieu sites may be offered to holders."

This provision of the 1988 policy is subject to revision because of the concluding sentence concerning in-lieu sites. It should also be noted that the option added the word "fire" to the list of events which would lead to the offering of an in-lieu site.

Comments: Most of those responding to this provision favored Option B while proposing modification to its language. Many respondents objected to the listing of fire in Option A as a catastrophic event, indicating it is inappropriate when considering the hazard inherent in the location of recreation residences in a forest setting and the fact that most residences are easily rebuilt. A number of others were concerned that the options were not specific as to the type of analysis required for a rebuilding or termination decision. They felt any departure from an analysis based on NEPA requirements would invite capricious and inconsistent action by local agency officials. While two respondents objected to the offering of in-lieu sites, one suggested that loss of a cabin due to a catastrophic event should entitle the owner to an in-lieu site in the same manner as nonrenewal of a permit.

Response: The agency agrees with the comments regarding fire as a catastrophic event. The destruction of recreation residences by fire most often results from the occupancy of the residence rather than wildfire. Therefore, the agency has not included the word "fire" in the reformulated policy. The Forest Service also agrees that the analysis of the site should follow NEPA guidelines and have inserted "environmental" before "analysis." Loss of a cabin and a subsequent termination decision would entitle the permittee to an in-lieu site only if the permittee had previously received a nonrenewal decision and the improvements are more than 50 per cent destroyed. Otherwise, the agency proposes to adopt Option B with some editing to be consistent with revisions made elsewhere in this notice. This provision appears as FSM 2721.23, paragraph 13 in the proposed reformulated policy which appears at the end of the notice.

(3) FSM 2721.23e, paragraph 5 of the 1988 policy read as follows:

When permits are not renewed at expiration, make every reasonable effort to offer holders alternative (in lieu) sites at locations not needed in the foreseeable future for a higher public use (FSM 2347.1 and FSH 2709.11, section 41.23b and section 41.23d)

The offered options were:

A. Remove paragraph 5.

B. When permits are not renewed at expiration, available in-lieu sites may be offered at locations not needed in the foreseeable future for alternative public uses.

Comments: The majority of respondents to this option felt no change was needed. Those favoring Option A stated that they were opposed to the offering of in-lieu sites. Several stated the wording of the provision should be consistent with provisions stated earlier in FSM on this subject.

Response: The agency believes that guidance on the offering of in-lieu sites is appropriate for this section of FSM and agrees that this direction should be consistent with the policy stated in FSM 2347.1. Accordingly, Option B has been revised to follow the direction in the reformulated FSM 2347.1, paragraph 9. This provision appears in the reformulated policy as FSM 2721.23f.

b. *Handbook Direction.* Under the 1988 policy, procedural guidance on offering of in-lieu sites was set forth in FSH 2709.11, section 41.23b.

(1) Paragraph 1.f. of section 41.23b read as follows:

"In-Lieu Site Availability. Make every reasonable effort to locate and reserve in-lieu sites that could be offered the holder for building or relocation of improvements. Such sites must be nonconflicting locations within or adjacent to the National Forest containing the residences (FSM 2347.1 and FSM 2721.23e). Appropriate alternatives for consideration are undeveloped or withdrawn sites in, near, or adjacent to established tracts, or new tracts at locations not needed in the foreseeable future for a higher public use. Sites that are vacant because of breach or other factors shall be available as in-lieu sites. Follow these procedures: * * *"

The option offered in the 1989 advance notice was: "Consider in-lieu sites that could be offered the holder for building or relocation of improvements. Such sites must be in nonconflicting locations within the National Forest containing the residences (FSM 2347.1 and FSM 2721.23e). Appropriate alternatives for consideration are undeveloped sites within or adjacent to established tracts at locations not needed in the foreseeable future for other public uses. Sites that are vacant because of breach or other factors may be considered as in-lieu sites. Follow these procedures * * *"

Comments: Half of those responding opposed the option because they felt it unfairly discriminates against those who may need to sell due to their own changed circumstances and against those who do not have the financial ability to develop a new site. Others opposed felt the option should be further refined by stating that the utilization of improvements on existing lots should be a prerequisite to offering vacant sites. Two respondents recommended the provision be removed and in-lieu sites not be offered.

Response: The proposed revision of in-lieu site policy previously discussed requires a corresponding revision of this handbook direction for consistency. The guidance appears in the reformulated policy in § 41.23c of FSH 2709.11, set out at the end of this notice.

(2) Under the 1988 policy, FSH 2709.11, of § 41.23b, paragraph 1.f.(1) reads as follows:

If possible, offer in-lieu sites to holders at the time the nonrenewal notice is given. If sites do not become available until later, offer them then.

The option offered was to replace the provision with the following: "When available, offer in-lieu sites to holders at the time the nonrenewal notice is given. If sites do not become available until later, offer them then."

Comments: Respondents were equally divided on this option, seeing little difference between the original language and that in the option.

Response: The only difference from the 1988 policy is that the optional language says to offer sites "when available" rather than "if possible." Adoption of this option is necessary only to ensure consistency with the terms used in the proposed reformulated policy in FSM 2347.1. It is set out in the reformulated handbook direction at § 41.23c, paragraph 1.

(3) In the 1988 policy, FSH 2709.11, § 41.23b, paragraph 1.f.(6) read as follows:

The opportunity to develop an in-lieu site, if accepted by the previous owner, will be extended to the new owner when there is a change in ownership of authorized improvements.

The only option offered was to remove this provision.

Comments: Two-thirds of the respondents opposed removal of this provision on the grounds that if a term permit itself was transferable, so should the right to develop an in-lieu site. Those favoring this option did so because they opposed the offering of in-lieu sites.

Response: Revision of this provision was offered to ensure consistency in the treatment of this subject. The agency proposes to retain the original provision, but has revised it to make clear that a new owner must meet the eligibility requirements of any permit applicant before the offer of an in-lieu site can be extended. This provision appears in paragraph 6 of § 41.23c of the reformulated handbook direction.

7. Termination During Term of Permit

(a) *Manual.* FSM 2347.1, paragraph 8, of the 1988 policy read as follows:

Termination of a recreation residence permit within the term of the permit should not be undertaken unless there are appropriations to pay for the improvements and there is an urgent need to use the site before it could be recaptured for public use by nonrenewal procedures. When considering a termination, follow the procedures for permit renewals and nonrenewals to the extent practical (FSH 2709.11, 41.23).

This 1988 handbook provision sought to establish consistency between those actions leading to nonrenewal of the permit and those appropriate to termination of a permit during its term. It advised the authorized officer to use the same procedure to analyze and document a decision to terminate a permit as that used in a decision to not renew a permit. The only option offered in the 1989 advance notice of proposed policy was to remove the last sentence.

Comments: Most of those responding to this section stated that the removal of the last sentence would not change the content of the policy provision and that the direction was clear. Others felt that removal of the sentence would invite procedures which differ from area to area and even between officials in the same area, and that basic permittee safeguards would be lost. In additional comments on this provision, one respondent offered the view that the word "funds" should be substituted for the word "appropriations" and that the option of buying out the permits should be used more often, while another respondent felt the word "urgent" should be removed from the first sentence.

Response: It must be kept in mind when considering this provision that termination of a permit during its term and expiration of the term of the permit are two separate and distinct actions, each requiring different documentation. The last sentence was placed in the 1988 policy to provide basic guidance when termination during the term of the

permit is being considered. The agency agrees that the sentence provides minimal assistance when considering termination action, but removal of all guidance in this regard would not be appropriate. Accordingly, this policy provision is revised to describe the circumstances under which termination action would be initiated; namely, (1) when it is the public interest, (2) when there is an uncorrected breach of the permit provisions, or (3) when the site has been rendered unsafe by catastrophic events such as flood, avalanche, or massive earth movement.

The word "appropriations" in the provision refers to monies provided by an Act of Congress specifically identified for termination of the permit and removal of improvements. As such, it describes the procedure and the source of funds used to pay for removal of the improvements before the permit term has expired. However, the agency finds that the word "monies" is a broader term in the appropriations context and has substituted it for "appropriations." The proposed revision does not remove the word "urgent". An action to terminate in the public interest must be clearly shown to be of such high priority that the authorized officer cannot wait until the permit has expired under its own terms. An example of a termination action in this category is construction or relocation of highways by a State Department of Transportation.

Finally, in response to those respondents who thought that "improvements" referred to those facilities that would replace the holder's improvements, this provision has been clarified to refer to "holder's improvements."

This provision appears at FSM 2347.1, paragraph 5, in the reformulated policy.

Revised Special Use Permit For Recreation Residences

In implementing the appeal decision, the agency notified permittees and other interested parties by **Federal Register** notice (54 FR 23499, June 1, 1989) that certain provisions of the policy were stayed. In addition, each permittee was notified by letter to this effect. As a result, certain provisions of the term permit (contained in the 1988 policy in section 54.1 of FSH 2709.11) which was offered to and accepted by permittees were without effect and removed from the permit until it could be revised in accordance with the appeal decision.

Permit clauses are derived from basic statutes, regulations, and policy. Therefore, the agency has reformulated those provisions of the permit that were temporarily removed as a result of the appeal decision to make them consistent with the revisions to the policy contained in this proposal. The permit is reprinted in its entirety at the conclusion of this notice (Exhibit 1 to FSH 2709.11, section 54.1) so that holders can see how the policies would be translated into terms and conditions of the permit. Upon adoption of a final reformulated policy and accompanying term permit, permittees will be required to convert their current interim permits to the new term permit.

Revision of Dispute Resolution Provisions

The 1988 policy at FSM 2721.23f encourages participation by permittee representatives, including the National Forest Recreation Association, Homeowners Division, and the National Inholders Association, in order to resolve disputes on recreation residence permit administration. This direction was intended to reduce conflict between the permittee and the agency. The involvement of these representatives and any information they provide in resolving the dispute is considered within the context of the Department of Agriculture's administrative appeal regulations.

In a January 23, 1989, **Federal Register** notice (54 FR 3342), substantial revisions were made to the administrative appeal regulations. As a result, the current policy at FSM 2721.23f, adopted in 1988, conflicts with the revised regulations and must be revised. The new regulations establish two distinct processes for obtaining administrative review of agency decisions. Regulations at 36 CFR, part 251, subpart C, are limited to appeal of decisions affecting written authorizations for occupancy and use of National Forest System lands and are available to holders of such authorizations, including recreation residence permittees. The other rules, at 36 CFR, part 217, are available to any citizen or organization to obtain review of Forest plans, projects, and activities.

The 1988 policy directed authorized officers to give notice of recreation residence issues and appeals that reach the Regional Forester to permittee representatives and others that request to be notified, unless requested otherwise by the permittee. The policy was intended to provide opportunity for permittee representatives to assist in resolving conflicts on a regional basis.

The revised policy, appearing at FSM 2721.23h, maintains the direction to reduce conflict between permittees and the agency by providing permittees' opportunity to participate in issue resolution. In proposed paragraph 1, agency officials are directed to consult with permittees and their representatives, where practicable, before issuing written decisions on permit administration in order to reach a common understanding and agreement. Proposed paragraph 2 revises the 1988 direction to encourage permittee involvement in the public involvement for Forest planning, project analyses, and the permit reissuance process (FSM 2721.23e) and to encourage officials to meet with permittees and their representatives to discuss and resolve issues prior to issuing a decision. Proposed paragraph 3 provides guidance on resolving actions that have been appealed, directing that the opportunities provided in the appeal regulations (36 CFR parts 217 and 251) be utilized by the Authorized Officer to resolve the appeal issues by means other than review and decision on the appeal.

Clarification of Other Provisions of the Policy

In his February 15, 1989, decision, the Assistant Secretary directed the Forest Service to clarify the procedure by which annual rental fees are determined for recreation residence use. Neither the policy or the appeal record contained information that established that annual rental fees were based on fair market value. Specifically, the appeal decision requires the agency to explain its rationale in adopting 3 components of the fee system: (1) Use of the period 1978–1982 as the base period for determining current fees, (2) Use of an index (Implicit Price Deflator-Gross National Product) to adjust fees annually to current fair market value, and (3) Use of a factor of 5 percent applied to the appraised value to determine the annual fee. The following information is provided in response to the appeal decision direction and should be considered supplemental to the information appearing in the recreation residence policy at FSM 2721.23d-Fee Determination and FSH 2709.11, chapter 30, section 33, Recreation Residence Fees. Readers are advised that the development and adoption in 1988 of a fee system for recreation residences was guided by congressional direction contained in the Fiscal Year 1983–1986 Appropriations Acts for the agency. Congress adopted that direction in response to widespread permittee concern over the large fee increases that resulted from the appraisals made in the 1978–1982 period.

By way of background, the Forest Service is mandated by the Independent Offices Appropriation Act of 1952 and Office of Management and Budget

Circular A–25 to use the fair market value approach to determining fees for holders of permits to use National Forest System land. Further, Congress, in enacting the Federal Land Policy and Management Act of 1976, declared it to be National policy that fair market value be received for use of Federal lands and their resources unless otherwise provided for by statute. Fair market value is determined by appraisal or other sound business management practice, such as market analysis or competitive bid. Fees for recreation residences are established by appraisal to determine fair market value of the land occupied. A factor of 5 percent is applied to that amount to determine the annual rental fee.

1. 1978–1982 Base Period

Prior to the adoption of the August 1988 policy, standard Forest Service policy was to establish annual rental fees by reappraisal of recreation residence sites in 5-year cycles. Fees thus established remained constant for the 5-year period and then upon reappraisal were adjusted to reflect the new fair market value. Often the adjustment to reflect the reappraisal caused substantial increases in rental fees, particularly in the early nineteen-eighties. This led to complaints and appeals by permittees and ultimately to the intervention by Congress mentioned above. The 1983–1987 appraisal cycle was in process but not completed at the time the August 1988 policy was being prepared. Most of appraisals had been completed, but administrative appeals on the new fees and the congressional direction had prevented their implementation.

In adopting the 1988 policy, the agency decided to use a 20-year cycle of appraisals to establish fair market value and annual indexing of the resulting fee principally to: (1) Overcome the problem of steep increases in fees upon reappraisal and (2) to reduce costs, improve efficiency, and lessen impacts on field personnel resulting from the 5-year appraisal cycle. Without a current reappraisal to use (1983–1987 cycle), the agency was required to use the 1978–1982 appraisal cycle as the base period for the new (1988) fee determination schedule, because it provided the most current fair market value for the recreation residence sites. The appraisals had been reviewed and approved according to existing policy and had been accepted by both the permittee and the agency as representing fair market value. This meant that as much as 10 years existed (1978 to 1988) between the last reappraisal and the implementation of the new fee schedule. To address this gap, the agency required the use of the Implicit Price Deflator (IPD) index to the previously established fees. A factor representing the percent of change over 1 year in the IPD was developed for each year between the base period years (1978–1982) and the initial year of the new fee schedule (1988). Using a "cumulative adjustment factor," those fees were brought to current fair market value. For example, a fee established by appraisal in 1978 was indexed forward to 1988 using a cumulative adjustment factor of 1.771, resulting in a fee increase of 77.1 percent. A fee established in 1982 was increased 26.1 percent.

2. Fee Indexing

Use of an index to maintain an annual rental fee at fair market value is a common and accepted practice in the private real estate market. The intent is to keep the rental/lease fee current to the local rental market. In drafting the 1988 policy in the period 1983–1987, 3 indices prepared by the Bureau of Economic Analysis, Department of Commerce were considered: the Consumer Price Index for all Urban Consumers (CPI–U), the Producer Price Index (PPI), and the Implicit Price Deflator-Gross National Product (IPD–GNP). The agency originally proposed use of the CPI–U in a 1984 rental fee proposal distributed for public comment. However, in reviewing the public comments and based on further examination, it was found that both the CPI and PPI were not entirely suitable for the purpose intended, mainly because these indices essentially measure the purchasing power of dollars to procure goods and/or services. Further, these indices are subject to wide variation from year to year as a result of swings in the National economy. The result of their use for recreation residences could be wide variation in rental fee increases from year to year, raising the question of whether fair market value is achieved on an annual basis.

In consulting specialists at the Department of Commerce and reviewing real estate trade publications, the agency learned that of the 3 indices, the IDP–GNP was the most stable. It is a weighted average of the price indices used in the deflation of the Gross National Product. Investigation also determined that the IDP was a more accurate reflection of price and cost increases than either the CPI or PPI. Thus, the IDP met the objective of minimizing sudden, large increases in fees that would prompt permittee complaint, appeal, and possible legislation while providing an accurate basis for ensuring the government received fair market value for the recreation residence use. Publication in 1987 of the draft recreation residence policy brought a strongly favorable response to use of the IDP from those commenting.

3. Five Percent Factor

This factor has been used by the Forest Service for many years to determine the annual rental fee from the appraised value. It is part of agency policy at FSM 2715.11 and is used for all types of special use permits on National Forest land having a fee based on appraised land value. Use of a percentage of fair market value to establish an annual rate is a common practice in the private real estate market. Investigation of comparable private land rental market transactions reveals that this factor ranges from 6 to as high as 15 percent of the value.

The Forest Service adopted a lower factor to provide an allowance for the various limitations and restrictions the agency imposes under the terms and conditions of the special use permit. Private leases for similar use generally contain fewer limitations and restrictions than the Forest Service permit. Examples of the restrictions in Forest Service permits include restricting use to single-family recreation residence purposes; requiring approval for changes to the lot or structures; protecting natural resources, scenic and esthetic values; and recognition of the terminable nature of the permit.

Having considered the comments received in response to the September 1989 advance notice of proposed policy and having reconsidered the 1988 recreation residence policy for consistency with applicable law and regulation, the agency is proposing a revised recreation residence policy that it believes is fully responsive to the Assistant Secretary's appeal decision and to the concerns of permittees and other interested parties. The full text of the proposed policy and procedure as it would appear in the Forest Service Directive System is set out at the end of this notice. It should be noted that this proposed policy has been carefully reviewed for compliance with agency directive system policy resulting in a number of changes in existing text to remove redundancy, to correct grammar, to clarify existing direction and to organize subject matter in a more logical flow and sequence. These changes are too numerous to cite but are of a technical, not substantive, nature. Written comments are invited on the

revised policy and will be considered in adoption of the final policy.

Readers are advised that the current interim recreation residence policy will continue in effect during the comment period on this proposed policy and until a final policy is adopted. Interim Directives which implement a portion of that policy will be appropriately extended.

Dated: July 19, 1991.

George M. Leonard,

Associate Chief.

Reformulated Recreation Residence Policy and Procedures

Note: The Forest Service organizes its directive system by alpha-numeric codes and subject headings. Only those sections of the Forest Service Manual and Handbook including policy direction that are the subject of this notice are set out here. The audience of this direction is Forest Service employees charged with issuing and administering recreation residence use authorizations.

FOREST SERVICE MANUAL

CHAPTER 2340—PRIVATELY PROVIDED RECREATION OPPORTUNITIES

2347 Non-Commercial Recreation Use

Sections 2347–2347.12b set forth direction for special use authorization of privately built and owned structures on National Forest land. These structures are maintained for the use and enjoyment of holders and their guests. As recreation facilities, they are vacation sites and may not be used on a permanent basis (FSM 2721.23).

2347.03 Policy

1. Manage non-commercial recreation use sites in accordance with basic recreation policy in FSM 2303 as valid and important components of the overall National Forest recreation program.

2. Ensure that recreation residence use does not preclude the general public from full enjoyment of the natural, scenic, recreational, and other aspects of the National Forests as stipulated in the Act of March 4, 1915 (FSM 2701).

3. Continue to authorize those existing facilities now occupying National Forest land under special use authorization that (a) are consistent with management direction given in the Forest Land and Resource Management Plan, (b) are at locations where the need for an alternative public purpose has not been established, (c) do not constitute a material, uncorrectable offsite hazard to National Forest resources, and (d) do not endanger the health or safety of the holder or the public.

4. Deny applications for construction of new facilities except where they would replace similar existing facilities.

5. Deny any proposal for commercial activity at permitted, non-commercial recreation use sites.

6. Require non-commercial recreation use holders to maintain their sites to protect the natural forest environment. Do not allow construction or placement of non-authorized facilities on these sites.

2347.1 Recreation Residences

(FSM 2721.23 and FSH 2709.11.) Recreation residences are a valid use of National Forest System lands. They are an important component of the overall National Forest recreation program and have the potential of supporting a large number of recreation person-days. They may provide special recreation experiences that might not otherwise be available. It is Forest Service policy to continue the recreation residence use and to work in partnership with holders of these permits to maximize the recreational benefits of these residences.

1. Administer recreation residence special use permits to ensure proper use of the site for family and guest recreational purposes (section 2347.11).

2. Do not approve any new authorizations for full-time residences, except in special situations to provide caretaker or other similar services where there is a strongly demonstrated need (FSM 2347.12). Do not approve in-lieu lots for full-time residential use.

3. Issue recreation residence term permits for a maximum of 20 years in accordance with procedures in FSM 2721.23e and FSH 2709.11, section 41.23.

4. Give holders at least 10 years written advance notice if a new permit will not be issued following expiration of the existing permit term (FSM 2721.23a).

5. Terminate a recreation residence permit before expiration of the term of the permit when (a) it is in the public interest, particularly when the final decision authority does not rest with the Forest Service, (b) there is an uncorrected breach of a permit provision(s), (c) the site has been rendered unsafe by catastrophic events such as flood, avalanche, or massive earth movement, or (d) when there is other cause as provided in 36 CFR 251.60. Termination in the public interest should not be undertaken unless monies are available to pay for the holder's improvements and there is an urgent need to use the site before it could be converted to other public uses by allowing the permit to expire under its own terms. When terminating a permit, give as much advance notice as possible (FSM 2721.23i).

6. Determine if in-lieu sites can be made available to holders whose sites will be converted to an alternative public use and have received notification that new permits for those sites will not be issued or who have received termination notices (except termination for noncompliance) (FSM 2721.23e). For this purpose, in-lieu sites must be in nonconflicting locations in established tracts within the National Forest containing the residences or in established tracts on adjacent National Forests. Appropriate sites for consideration are undeveloped lots within or adjoining established recreation residence tracts and which are not needed in the foreseeable future for other public uses. Lots that are vacant because of noncompliance or other factors also may be considered as in-lieu lots. In-lieu sites should be comparable to the sites being converted to an alternative public use when possible, but make sure that holders are informed that the Agency cannot guarantee that the available in-lieu sites will be entirely satisfactory. Do not establish new recreation residence tracts for in-lieu site purposes. Offer in-lieu sites in accordance with the procedures in FSH 2709.11, section 41.23c.

2347.11 Preventing Unauthorized Residential Use

Prevent unauthorized full-time residential use by enforcing the terms of the special use permit. Continue to administer those recreation residences presently authorized as a principal place of residence in accordance with provisions of the special use permit. Upon transfer or sale of improvements, discontinue the residential use and authorize only recreation residence use.

2347.12 Caretaker Residences

2347.12a Authority

Authorize caretaker use of a recreation residence with an annual permit, Form 2700–4, under the Act of June 4, 1897. (Require applicants who currently have term permits to exchange them as a condition of obtaining the caretaker authorization.)

2347.12b Caretaker Residence Use

The need for a caretaker residence rarely can be justified where yearlong occupancy is already authorized in the tract. The Forest Supervisor may authorize a caretaker residence in limited cases where it is demonstrated that caretaker services are needed for the security of a recreation residence tract and alternative security measures are not feasible or reasonably available.

The fees for caretaker residences shall be 25 percent more than those charged for recreation residence use of a similar site in the tract. A tract association may own caretaker residences.

1. Authorize no more than one caretaker residence per recreation residence tract unless factors such as size and layout of the tract call for more than one. The affected tract association, or if there is no association, at least 60 percent of the affected holders, must document approval of request for a caretaker residence. Require the applicants for caretaker use to document the caretaker services they will provide.

2. Do not authorize construction of a new residence for caretaker services. Issue the annual permit only for an existing residence. The permit must contain a provision that automatically terminates authorization for yearlong use in case of change in ownership.

3. Coordinate applications for caretaker residence permits with local governmental agencies to avoid creating unreasonable demands or burdens for such services as snow plowing, mail delivery, garbage pickup, school bus, or emergency services.

4. If a site ceases to be used as a caretaker residence, issue a new term permit for recreation residence use to the holder, if qualified, or to the purchaser of the improvements.

FOREST SERVICE MANUAL

CHAPTER 2720—SPECIAL USES ADMINISTRATION

2721.23 Recreation Residence

The term "recreation residence" includes only those residences that occupy planned, approved tracts or those groups established for recreation residence use. See FSM 2347 for basic policy on recreation residence use.

2721.23a Administration

The following direction relates specifically to issuance and administration of special use permits for recreation residences. For recreation residence permits in Alaska, follow the additional requirements in section 1303(d) of the Alaska National Interest Lands Conservation Act. Administer recreation residence permits in accordance with the direction in sections 2721.23a–2721.23i and within the broad policy governing recreation residences and permitted uses set forth in FSM 2347.1 and 36 CFR 251.50.

1. Issue special use permits for recreation residence use in the name of one individual or to a husband and wife. Upon reissuance or amendment, revise authorizations that are not issued to an individual or to a husband and wife, so that the responsible person is identified.

2. Issue no more than one recreation residence special use permit to a single family (husband, wife, and dependent children).

3. Do not issue special use permits for recreation residence use to entities such as commercial enterprises, nonprofit organizations, business associations, corporations, partnerships, or other similar enterprises, except that a tract association may own a caretaker residence.

4. To the extent possible, issue all recreation residence permits in a tract, or in logical groups of tracts, with the same expiration date.

5. To help defray costs and provide additional recreation opportunities, a holder may obtain permission for incidental rental for specific periods. Ensure that rental use is solely for recreation purposes and does not change the character of the area or use to a commercial nature. Rental arrangements must be in writing and approved in advance by the authorized officer. The holder must remain responsible for compliance with the special use authorization.

6. Allow no more than one dwelling per site to be built. In those cases where more than one dwelling (residence/sleeping cabin) currently occupies a single site, allow the use to continue in accordance with the authorization. However, correct such deficiencies, if built without prior approval, upon transfer of ownership outside of the family (husband, wife and dependent children).

7. When a recreation residence is included in the settlement of an estate, issue a new special use permit for the remainder of the original permit term, updated to reflect policy and procedural changes, to the properly determined heir, if eligible. Prior to estate settlement, issue an annual renewable permit to the executor or administrator to identify responsibility for use pending final settlement of the estate. When a recreation residence is sold, issue a new term permit to the buyer for the remainder of the original permit term, updated to reflect policy and procedural changes, if eligible.

8. Specify in the permit that the recreational residence must be occupied at least 15 days annually, the minimum acceptable period of occupancy.

9. Issue recreation residence term permits for a maximum of 20 years.

10. When a decision is made to convert the site to an alternative use (2721.23e), take the following actions:

a. Notify the holder of the reasons and provide a copy of the decision documentation.

b. Allow at least 10 years of continued occupancy after notification.

c. Allow the current term permit to expire under its own terms and if the holder is entitled to additional time to satisfy the 10-year notification period, issue a new term permit for the remaining period. Clearly specify any limited tenure by including the following statement in the permit:

This permit will expire on (insert date) and a new permit will not be issued.

11. Before the Forest Supervisor issues a decision to convert a site to an alternative public use, submit the proposed decision, supporting documentation and summary of public comments, to the Regional Forester for review for adequacy of the documentation and analysis. If analysis and documentation are inadequate to support the proposed decision or there is some other deficiency in the proposed decision, the Regional Forester shall instruct the Forest Supervisor to remedy the deficiencies and reconsider the proposed decision prior to making the final decision.

12. As with any resource allocation made in a Forest plan, the Forest Supervisor may reconsider a decision to continue or convert recreation residence sites to an alternative public use at any time new or changed conditions merit such reconsideration.

13. In the event a recreation residence is destroyed or substantially damaged by a catastrophic event such as a flood, avalanche, or massive earth movement, conduct and document an environmental analysis to determine whether improvements on the site can be safely occupied in the future under Federal and State laws before issuing a permit to rebuild or terminating the permit. Normally, an analysis should be completed within 6 months of such an event.

If rebuilding would be consistent with the Forest Land and Resource Management Plan, the use is within the permit term, and the site can be occupied safely, allow rebuilding. However, if the need for an alternative public use at the same location has been established prior to the catastrophic event, do not allow rebuilding if the improvements are more than 50 percent destroyed. If rebuilding is not authorized, in-lieu lots may be offered as provided by FSM 2347.1, paragraph 6 and FSH 2709.11, sec. 41.23c.

14. At the time permits are issued, advise holders that the terms of the

permit require that they notify the Forest Service if they intend to sell their improvements and that they must provide a copy of the permit to a prospective purchaser before finalizing a sale. Whenever possible, the authorized officer should advise a prospective purchaser of the terms and conditions of the permit before a sale is final.

15. Do not stay a fee increase pending completion of an appeal of the fee under the administrative appeal regulations. Make any adjustments resulting from the administrative review through credit, refund, or supplemental billing.

16. During the term of a permit, terminate the use only in accordance with applicable regulations and the terms and conditions of the permit. Except for termination for noncompliance of terms of the permit, the Forest Supervisor shall submit proposed terminations, with supporting documentation and a summary of the public comments, to the Regional Forester for review prior to the Forest Supervisor's issuance of a decision. If analysis and documentation are inadequate to support the proposed decision or there is some other deficiency in the proposed decision, the Regional Forester shall instruct the Forest Supervisor to remedy the deficiencies and reconsider the proposed termination prior to making the final decision.

2721.23b Applications

Insofar as practicable, notify a new or prospective owner of the requirement to make application for the authorization to use existing improvements in accordance with 36 CFR 251.54.

2721.23c Permit Preparation

1. Use the Term Special Use Permit for Recreation Residence (Form FS 2700–18; FSH 2709.11, ch. 50), to authorize recreation residences, except as specified in paragraph 2 of this section.

2. Use the Special Use Permit (Form FS–2700–4) when:

a. Conversion of the site to a alternative public use is authorized, the conversion will be delayed, and a minimum term of continued use cannot be predicted.

b. Continuance of the recreation residence use is conditioned on the owner complying with specific Forest Service requirements before a term permit is issued.

c. The improvements are managed by a third party pending settlement of an estate, bankruptcy proceedings, or other legal action.

d. Yearlong occupancy is authorized by the Forest Supervisor, at which time the improvement ceases to be a recreation residence.

3. In either permit, identify all authorized improvements associated with recreation residence use. Do not authorize use of more than the statutory maximum of 5 acres under a term permit. Authorize community or association-owned improvements, such as water systems, by a separate special use permit (Form FS–2700–4).

2721.23d Fee Determination

(FSH 2709.11, ch. 30.).

1. Use fair market value as determined by appraisal in determining the base annual rental fees for recreation residence sites. Redetermine the base fee at 20-year intervals.

2. Adjust the fee annually by the annual (second quarter to second quarter) change in the Implicit Price Deflator-Gross National Product (IPD–GNP).

3. Use professional appraisal standards in appraising recreation residence sites for fee determination purposes (FSH 2709.11.)

4. Where practicable, contract with private fee appraisers to perform the appraisal.

5. Require appraisers to coordinate the assignment closely with affected holders by seeking advice, cooperation, and information from the holders and local holder associations.

6. Retain only qualified appraisers. To the extent practicable, use those appraisers most knowledgeable of market conditions within the local area.

7. Before accepting any appraisal, conduct a full review of the appraisal to ensure the instructions have been followed and the assigned values are supported properly.

FOREST SERVICE HANDBOOK 2709.11—SPECIAL USES

CHAPTER 30—FEE DETERMINATION

33 Recreation Residence Fees

33.1 Base Fees and Indexing

Follow these procedures in determining the base (beginning) fee and subsequent fees under a 20-year cycle.

1. As the initial base, use the fees established in one of the years between 1978 and 1982. The first year of the fee cycle is the first year of the established fee (disregarding any phase-in that may have been provided). Adjust the full base fee forward by applying the appropriate cumulative Implicit Price Deflator-Gross National Product (IPD–GNP) adjustment factor shown in Exhibit 1. New fees for 1989, established in this manner, will be phased-in over a 4-year period (1989–1992) at the rate of one-fourth of the increase each year, except that fees will not be phased-in for those permits that limit fee adjustments to 5-year intervals.

In those cases where there may not be a fee established for the 1978–1982 period, Regional Foresters are authorized, subject to concurrence of the Chief, to utilize a different starting date and the adjust the length of the fee cycle so that all permits will have a new base fee determined during the 1998–2002 period.

2. For 1990 through the last year of the fee cycle, adjust the fees on an annual basis by calculating the percentage change of the IPD–GNP index (as reported by the Bureau of Economic Analysis, Department of Commerce, in July of each year) from the second quarter of the previous year to the second quarter of the current year and applying this percentage adjustment factor to the current year's fees.

For term permits that restrict adjustments to 5-year intervals, apply the IPD index adjustments cumulatively at 5-year intervals. At the end of the current 20-year term, or earlier if agreed to by the holder, revise permits to provide for annual indexing.

3. Limit the annual fee adjustment for 1990 and thereafter to 10 percent per year when the change in the IPD–GNP index exceeds 10 percent in any one year. The index amount in excess of 10 percent will be carried over and applied to the fee for the next succeeding year in which the index factor is less than 10 percent.

4. If a new permit is to be issued (FSM 2721.23a), re-appraise the site toward the end of the 20-year cycle. Beginning in the twenty-first year (the first year of the next fee cycle; 1998 in the case of 1978 fees), put into effect the base fee for the next 20-year cycle by applying 5 percent to the newly determined appraised market value of the site for recreation residence purposes.

5. In those few cases where one or more additional sleeping structures (guest cabins, and so forth) have been added to a single site, add to the current adjusted base fee an additional charge equal to 25 percent of the fee established for a single residence use of the site or $100, whichever is greater, per structure.

EXHIBIT 01, SEC. 33.1—IPD–GNP ADJUSTMENT FACTOR BY YEAR

Base fee year	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	Cum. adj.
1978	1.101	1.092	1.095	1.067	1.050	1.032	1.038	1.033	1.026	1.028	1.029	1.771
1979		1.092	1.095	1.067	1.050	1.032	1.038	1.033	1.026	1.028	1.029	1.609
1980			1.095	1.067	1.050	1.032	1.038	1.033	1.026	1.028	1.029	1.473
1981				1.067	1.050	1.032	1.038	1.033	1.026	1.028	1.029	1.346
1982					1.050	1.032	1.038	1.033	1.026	1.028	1.029	1.261

Note: Cum. Adj. = Cumulative Adjustment.

The above factors for fee years 1979–1986 were taken from table 6, Price Indexes and the Gross National Product Implicit Price Deflator, as published in the Survey of Current Business by the Department of Commerce, Bureau of Economic Analysis, February 1986. These factors represent an annual rate, based on the percent change from the first quarter to the second quarter of the indicated year. The 1987 factor of 1.026 is the percentage change in the IPD–GNP index from the second quarter of 1985 to the second quarter of 1986 as reported in the July 1986 issue of "United States Department of Commerce News," a publication by the Bureau of Economic Analysis. The IPD–GNP index for the second quarter of 1985 is 111.1. The 1988 and 1989 factors, were determined following the same procedures, using the appropriate year's publication. The factors for 1979–1989 in exhibit 1 are shown only to illustrate how the cumulative adjustment factor used to establish the 1989 fee is determined. The factor was determined by chain multiplying the factor for the years within the base fee year period (for 1982 this would be $1.050 \times 1.032 \times 1.038 \times 1.033 \times 1.026 \times 1.028 \times 1.029 = 1.261$.) See exhibit 02 for examples of applications.

Exhibit 02, Sec. 33.1—Examples of Use of IPD–GNP Table

The following two examples illustrate use of the IDP–GNP adjustment factors in Exhibit 01 in determining the 1989 fee:

(1) *Example 1.* A fee of $412 that became established in 1982 (first year in the fee cycle) would be adjusted to $520 in 1989 ($412 × 1.261). This would be the fee amount owed by a holder who does not accept the new term permit and would remain constant until the end of the five year adjustment period. If a new term permit is accepted, the fee would be phased-in, and the holder would be charged $439 for 1989, instead of the full amount.

(2) *Example 2.* a 1980 base year fee of $315 would be adjusted to $464 ($315 × 1.473) with the actual 1989 charge limited to $352 for a new term permit. A holder who keeps the old permit would pay the full fee of $464 in 1989.

Under both examples, factors for the years 1990 and thereafter will be determined in the same manner as the 1989 factor. Using the 1989 factor as an example, the index for the second quarter of 1987 as reported in the July 1987 Bureau publication is 117.2; the index for February 1988 in the July 1988 Bureau publication is 120.6. The percentage change in the index to be used to determine 1989 fees is 120.6 minus 117.2 divided by 117.2. Thus, 1989 fees will be 2.9 percent higher than 1988 fees for those permits that are indexed.

Using the above two examples, calculation of the 1990 fees for those accepting new term permits would be as follows: (A 1990 IPD–GNP adjustment factor of 1.028 is assumed.)

(1) *Example 1.* The full 1989 fee of $520 times the IPD–GNP index factor for 1990 of 1.028 equals $535, the full fee for 1990. The increase in the fee is $15. The amount of the 1989 fee increase to be phased-in in 1990 is $54 ($520 − $412 = $108/2 = $54). Thus, the 1990 fee to be charged is the base 1982 fee of $412 + $54 + $15 = $484.

(2) *Example 2.* The full 1990 fee equals $477, a fee increase of $13. The amount of the 1989 fee increase to be phased-in in 1990 is $75 ($464 − $315 = $149/2 = $75). Thus, the 1990 fee to be charged is the base 1980 fee of $315 + $75 + $13 = $403.

33.11 Fee Credits

In billing holders for fees, reduce the fee by the amount of any unused or remaining credits due holders under provisions of the Appropriations Acts for fiscal years 1983 through 1986.

33.2 Fees on Nonrenewal

When permits are placed on tenure (that is, a new special use permit will not be issued following expiration), the annual fee for the tenth year prior to the expiration date of the current permit becomes the base fee. The fee for each year during the last ten years is one-tenth of the base fee multiplied by the number of years then remaining on the permit. For example, charge a holder with nine years remaining 90 percent of the base fee; with eight years, 80 percent; and so forth.

Use the following schedule to calculate the holder's fee during the 10-year period:

Years remaining on current permit	Percent of base fee to charge
10	100
9	90
8	80
7	70
6	60
5	50
4	40
3	30
2	20
1	10

When a review of the decision to convert the site to an alternative public use shows that changed conditions warrant continuation of the recreation residence, use the following fee determination procedures:

1. If a new 20-year term permit is issued, the Forest Service shall recover the amount of fees foregone while the previous permit was under notice that the site would be converted to an alternative public use. Collect this amount evenly over a 10-year period in addition to the annual fee due under the new permit. The obligation runs with the site and shall be charged to a subsequent purchaser.

The annual fee under the newly issued 20-year permit shall be the annual index adjusted fee computed as though no limit on tenure existed, plus the amount specified above until paid in full.

2. If a 20-year term permit is not issued, and the occupancy of the subject site is to be allowed to continue for less than 10 years (that is, authorized by a new permit for a specified term), do not recover past fees. Determine the fee for a new permit of less than 10 years by computing the fee as if notice that a new permit would not be issued had not been given, reduced by the appropriate percentage for the number of years of the extension (that is, a 6-year tenure period results in a fee equal to 60 percent of the base fee).

3. If a 20-year term permit is not issued, and the occupancy of the subject site is to be allowed to continue for

more than 10 years (authorized by a new permit for a term of less than 20 years), the Forest Service shall recover fees as outlined in preceding paragraph 1, computed for the most recent 10-year period in which the term of the permit was limited.

33.3—Appraisals

Use the following process to determine the fair market value of recreation residence sites.

1. Use appraisals made by professional appraisers for determining the market value of the fee simple estate of the National Forest land underlying the site subject to a special use permit, but without consideration as to how the authorization would or could affect the fee title of the site (FSH 5409.12, chapter 6 for the standard contract to be used to establish fair market value of recreation residence sites).

2. In consultation with affected holders, select and appraise typical sites (rather than all individual sites) within groups that have essentially the same or similar value characteristics. Within such groupings, adjust for measurable differences between the sites. (Once properly established, typical site classifications should rarely change.)

3. Ensure appraised values are based on comparable market sales of sufficient quality and quantity that will result in the least amount of dollar adjustment to make them reflective of the subject sites' characteristics. Such characteristics include:

a. Physical differences between subject site and the comparable sales.

b. Legal constraints imposed upon the market by governmental agencies.

c. Economic considerations evident in the local market.

d. Locational considerations of subject site in relation to the market (sales) comparable.

e. Functional usability and utility of the site.

f. Amenities occurring to the site as compared with selected sales comparables.

g. Availability of improvements (such as roads, water systems, and power lines) provided by nonholder entities, including the United States. Do not adjust for improvements furnished by holders.

h. Other market forces and factors identified as having a quantifiable effect upon value.

33.31—Appraisers

1. Select fee appraisers who hold a current certification of competence from a nationally recognized professional appraisal organization. In the case of Forest Service appraisers, use those individuals who have received adequate training through professional appraisal organizations and who have satisfactorily completed the basic courses necessary to demonstrate competence.

2. Require appraisers to sign a standard agreement that states:

a. The approved appraisal format to be used.

b. The approved standard forms to be used.

c. A full, complete, and accurate definition of the appraisal problem.

d. The standards of professional competence, ethics, and practice to which the appraiser shall adhere.

e. Those requirements of the appraisal assignment that may be imposed under (1) statutes, (2) Federal regulations, (3) Forest Service policies and procedures, and (4) situations unique to the given appraisal assignment.

3. Require appraisers to notify affected holders by mail and offer to meet with them to discuss the assignment, answer questions specific to the assignment, and seek advice, information, and cooperation from the holders and their local organizations. The appraiser must notify holders of such a meeting at least 30 days in advance of the meeting. Send notices to the address used for bills for collection. Use the notice to give the holders advance information on the appraisal assignment. At such meetings, require that the appraiser have available copies of the appraisal instructions, directions, and requirements for review by the holders. An appraisal cannot be made prior to the meeting with the holders.

33.32—Establishing Recreation Residence Site Value

1. Upon receipt of the appraisal report, conduct a review of the appraisal in conformance with the standards of the National Association of Review Appraisers.

2. Following review and acceptance of the appraisal, notify affected holders of Forest Service acceptance of the report. In the notification, inform holders that they and other interested parties have 45 days in which to review the appraisal. Upon request, provide copies of the report(s) and supporting documentation pursuant to the Freedom of Information Act.

3. Upon request, provide an opportunity for affected holders to obtain, at their expense, an appraisal report from an appraiser holding at least the same or similar qualifications as the one selected by the Forest Service.

a. The Forest Service shall provide holders with a copy of the standards used by the appraiser selected by the Forest Service and holders shall provide the standards to the holder-employed appraiser. The holder must require the observance of these standards, including a signed certification that ensures an understanding of the appraisal instructions and standards. Reject any appraisals that do not meet these standards.

b. Subject the holder-furnished appraisal to the same review requirements as the appraisal obtained by the Forest Service.

4. Give full and complete consideration to both appraisals. If the two appraisals disagree in value by more than 10 percent, ask the two appraisers to try and reconcile or reduce their differences. If the appraisers cannot agree, the Forest Supervisor will utilize either or both appraisals to determine the fee, unless a third appraisal is requested and accepted by the Supervisor.

5. When requested, seek a third appraisal.

a. The cost shall be shared equally by the holder and the Forest Service.

b. This appraisal must meet the same standards of the first and second appraisals. The Forest Supervisor has discretion to accept or reject the third appraisal.

FOREST SERVICE MANUAL

CHAPTER 2720—SPECIAL USES ADMINISTRATION

2721.23e Recreation Residence Continuance

Follow the direction in this section and the procedures in section 41.23, FSH 2709.11 in determining whether recreation residence term permits may be issued for a new term at current sites.

1. The Land and Resource Management Plan (Forest plan) provides direction for continuance of the recreation residence use (FSM 1920). As Forest Plans are revised, recreation residence use shall be explicitly addressed in the plan through delineation of management areas and associated management area prescriptions (FSM 1920).

2. Decisions to issue new recreation residence term permits following expiration of the current term permit require a determination of consistency with the current Forest plan. Make this determination by evaluating the extent to which continued recreation residence use adheres to the standards and guidelines contained in the management prescription for the appropriate management area. Address continuation of recreation residence use on a tract or group of tracts basis, not on individual sites.

a. Use Consistent With Forest Plan. When recreation residence use is consistent with the Forest plan and there are no extraordinary circumstances that merit analysis of environmental effects, recreation residence use shall continue under the terms of existing permits, and no further action is required until permit expiration approaches. Two years before expiration, confirm in a decision memo consistency of continued use with management direction in the Forest plan and the absence of extraordinary circumstances. In addition, a project or case file is required. See FSM 1950 and FSH 1909.15, chapter 30, for direction on categorical exclusions.

b. Use Not Consistent With Forest Plan. When a Forest plan is amended or revised and the lands currently authorized for recreation residence use are allocated to other uses and/or continued recreation residence use would be inconsistent with new management prescriptions, standards, and guidelines, the Forest Supervisor shall proceed to implement the new uses or new direction as called for in the plan. Because Forest plan direction, in all probability, will not have the site specific information needed for the decision, further analysis is needed. This requires conducting a project analysis that identifies a range and intensity of alternative public uses, including consideration of continuation of existing recreation residence use in the area. The project analysis must comply with NEPA requirements and is subject to appeal under 36 CFR part 217.

(1) If, based on the project analysis, a finding is made that the recreation residence use may continue, amend the Forest plan and issue new 20-year term permits following permit expiration for those sites where recreation residence use may continue.

(2) In the event of a decision to convert a site to an alternative public use, grant the holder at least 10 years continued use from the date of the decision, unless the continued use conflicts with law and regulation, and identify the specific alternative public purpose(s) for which the land is being recovered. As provided by FSM 2347.1, a forest officer may authorize continued use of the site until such time as conversion of the new use is ready to begin by issuing a new permit for the remaining period.

(3) Review the project analysis decision two years prior to permit expiration, if that decision is more than five years old, to determine if there have been any changes in resource conditions that require another look at the decision. A review determination is not appealable. If the review shows that conditions have not changed, implement the project analysis-based decision. If the review indicates that resource conditions have changed, conduct a new analysis to determine the proper action. Decisions arising from this new analysis are appealable.

2721.23f In-Lieu Sites

When new permits will not be issued following expiration of the present permit, in-lieu sites may be offered, if available, at locations not needed in the foreseeable future for alternative public uses in accordance with FSM 2347.1, paragraph 6 and FSH 2709.11, section 41.23c.

2721.23g Land Exchange

Proposals to convey recreation residence tracts into private ownership by land exchange may be considered at any time. Such proposals must be processed in accordance with the instructions in FSM 5430 applicable to all land exchanges.

2721.23h Cooperation and Issue Resolution

Authorized officers shall strive to reduce conflict between permittees and the Forest Service arising from permit administration. As necessary, specify a Forest Officer to work with the permittee, their representatives, and other interested parties on specific issues.

1. Provide opportunity for permittees and their representatives to participate in issue resolution. Where practicable, except where an imminent hazard or risk to health and safety or resources requires immediate action prior to issuing written decisions related to permit administration, consult and meet in person, or by telephone, with permittees and their representatives to discuss any issues or concerns related to the permit and to reach a common understanding and agreement.

2. During forest planning, project analysis, and the permit reissuance analysis processes, seek full involvement of permittees and their representatives in public involvement opportunities and activities. Encourage and solicit their input and comments. Meet with permittees and their representatives to discuss any issues or concerns arising in the planning and analysis processes and explore opportunities to resolve those issues prior to issuing a decision.

3. If a decision is appealed, utilize the opportunities provided in the appeal rules (36 CFR 217.12 and 251.93) to discuss the appeal with the appellant(s) and intervenor(s) (and/or their representatives) together or separately to explore opportunities to resolve the issues by means other than review and decision on the appeal.

2721.31i Noncompliance

Give written notice and provide a reasonable opportunity for a holder to correct special use permit violations before terminating the use for noncompliance with the permit conditions (36 CFR 251.60(e)). Termination for noncompliance shall be only for a breach of a permit provision(s) that continues after notice and a reasonable opportunity for correction has been given (FSM 2347.1, paragraph 5).

2721.23j Site Restoration

On expiration of a permit which will not be reissued or termination prior to expiration (FSM 2721.23a(10), 2721.23a(16)), require the holder to restore the property to a condition acceptable to the Forest Supervisor (36 CFR 251.60(j)). The holder may relinquish the improvements to the Forest Service upon approval of the Forest Supervisor. Terms and conditions for site restoration are given in the term permit issued for recreation residences.

Forest Service Handbook 2709.11—Special Uses

Chapter 40—Special Uses Administration

41.23 Recreation Residence Use

41.23a Permit Reissuance

When a Forest plan is amended or revised and recreation residence use remains consistent with management direction given in the Forest plan, reissue the permit in accordance with the following:

1. The decision to reissue shall be supported by an appropriate environmental document as required by FSH 1909.15. Since recreation residences have been in place for many years, and experience in administering this use has shown that continuing the use does not cause significant environmental impacts, the decision can be categorically excluded from documentation in an Environmental Impact Statement or an Environmental Assessment. However, the nature of the action is such that a project or case file and decision memo are required. Only when extraordinary circumstances are involved is an EA or EIS required. This may include the presence of threatened or endangered species or their critical habitat, flood plains, wetlands, municipal watersheds,

and religious, cultural, archaeological, or historic sites.

2. Complete the reissuance determination 2 years prior to the expiration for the current term permit and notify the holder of the decision.

3. Review and update the term permit provisions to ensure that the new permit contains those clauses necessary to comply with all current regulations of the Secretary of Agriculture and all present Federal, State, county, or municipal laws, ordinances, or regulations which are applicable to the area covered by the permit.

41.23b Project Analysis.

When a Forest plan is amended or revised and existing recreation residence use is no longer consistent with Forest plan management direction, conduct a site specific project analysis to implement the new direction. During this project analysis, consider continuation of recreation residence use as an alternative along with the proposed alternative public use.

1. *Public Involvement.* During the project analysis process, encourage and solicit information, comments, and involvement from permittees and other interested parties. Follow Forest Service public involvement procedures, including those associated with NEPA (FSM 1620, FSH 1900.12, and FSH 1909.15). Facilitate holder involvement by timing review periods as closely as possible to the recreation residence season.

2. *Analysis Documentation.* The project analysis report and appropriate NEPA compliance document must contain objective, detailed information regarding existing recreation residence use and include a full range of alternatives that includes consideration for retention of some or all of the existing recreation residence use.

3. *Analysis Factors and Considerations.* a. *Site use.* Examine the relationship of the existing recreation residence use with the proposed use of the site, including compatibility and conflict. Describe any current or anticipated conflicts between recreation residence use and the proposed use. Describe the feasibility of other sites to meet the proposed use or how the proposed use could be provided for by modifying recreation residence use or by modifying the proposed use.

Develop a full range of alternatives that:

(1) If possible, show ways to meet the proposed use without significant conflict with existing recreation residence uses and how potential conflicts can or cannot be mitigated.

(2) Examine the feasibility of common, shared, or multiple use that includes recreation residences. Also examine the feasibility of adjusting site and tract sizes, configurations and boundaries, or relocation of site improvements to better accommodate such use.

(3) Examine the feasibility of alternative sites for recreation residence use and for the proposed use.

(4) Compare the benefits and disadvantages of the proposed use with the benefits and disadvantages of continued recreation residence use, including economic considerations.

(5) Examine the feasibility of using land exchanges to meet recreation residence and/or the proposed use.

b. *Other Resource Impacts.* Show how recreation residence occupancy is compatible or in conflict with other National Forest System resources. Consider the applicability of Section 106 of the National Historic Preservation Act and other Federal and State laws which may have an effect on these resources.

c. *Environmental Impacts.* Discuss the environmental impacts of continued recreation residence use, together with the impacts of any improvements necessary for their continued use, compared with the impacts of the proposed use. Examine the resource, economic, and social impacts of recreation residence removal, the proposed use of the land, and any new construction.

4. *Decison Issuance and Documentation.* a. If the project analysis results in a finding that continued recreation residence use will not conflict with the proposed use or that the proposed use can accommodate some or all of the recreation residence use, issue a decision to issue new 20-year permits for the applicable sites following permit expiration and at the same time amend the forest plan. The decision document shall summarize the conclusions regarding recreation residence use and provide a basis for the issuance of new permits.

b. If the project analysis results in a finding that recreation residence use is not compatible with the proposed use, issue a decision that the recreation residence sites are to be converted to the proposed use and notify the holder(s).

(1) In addition to other requirements specified in FSH 1909.15, the decision document shall include the following:

(a) The estimated time of conversion.

(b) The reasons the recreation residence use is not compatible with the proposed use.

(c) The reasons why the selected alternative was chosen over others.

(d) A summary of alternatives to the conversion, including the possibility of combining or sharing use with recreation residence use; adjusting lots or locations of improvements to better accommodate common or shared uses; and alternatives suggested by affected holders and other interested members of the public.

(e) The reasons any conflict between the recreation residences and the proposed use cannot be resolved.

(f) Cost effectiveness of the proposed use.

5. *Decision Notification.* a. Provide holders and any interested parties with copies of the project analysis, NEPA documentation, any plan amendment, and decision document as soon as possible after the decision along with notice of appeal rights under 36 CFR part 217 or part 251.

b. When sites will be converted to the proposed use and new permits will not be issued upon expiration of the present permits, provide:

(1) Ten years or more notice that the site will be converted to the proposed use. Normally, use the same conversion date for all affected holders in a particular group or tract.

(2) Notice that the holder should refrain from making costly repairs, improvements, or expenditures except those are necessary to protect public health or safety.

6. *Project Decision Review.* Two years prior to permit expiration (usually the 18th permit year), Forest Supervisors shall review all project decisions that are more than five years old to determine if there have been any changes in resource conditions that require reconsideration of the decision.

For all reviews, the following apply:

a. Reviews shall be objective, comprehensive, and in writing. New information, changed resource conditions, and new or changed land allocations shall be reviewed carefully to determine if a new site analysis and/or additional NEPA compliance is needed.

b. When initiating the review, notify affected holders and interested publics in writing and provide opportunity for involvement in accordance with Forest Service public involvement procedures.

c. If review indicates that conditions have not changed, implement the decision.

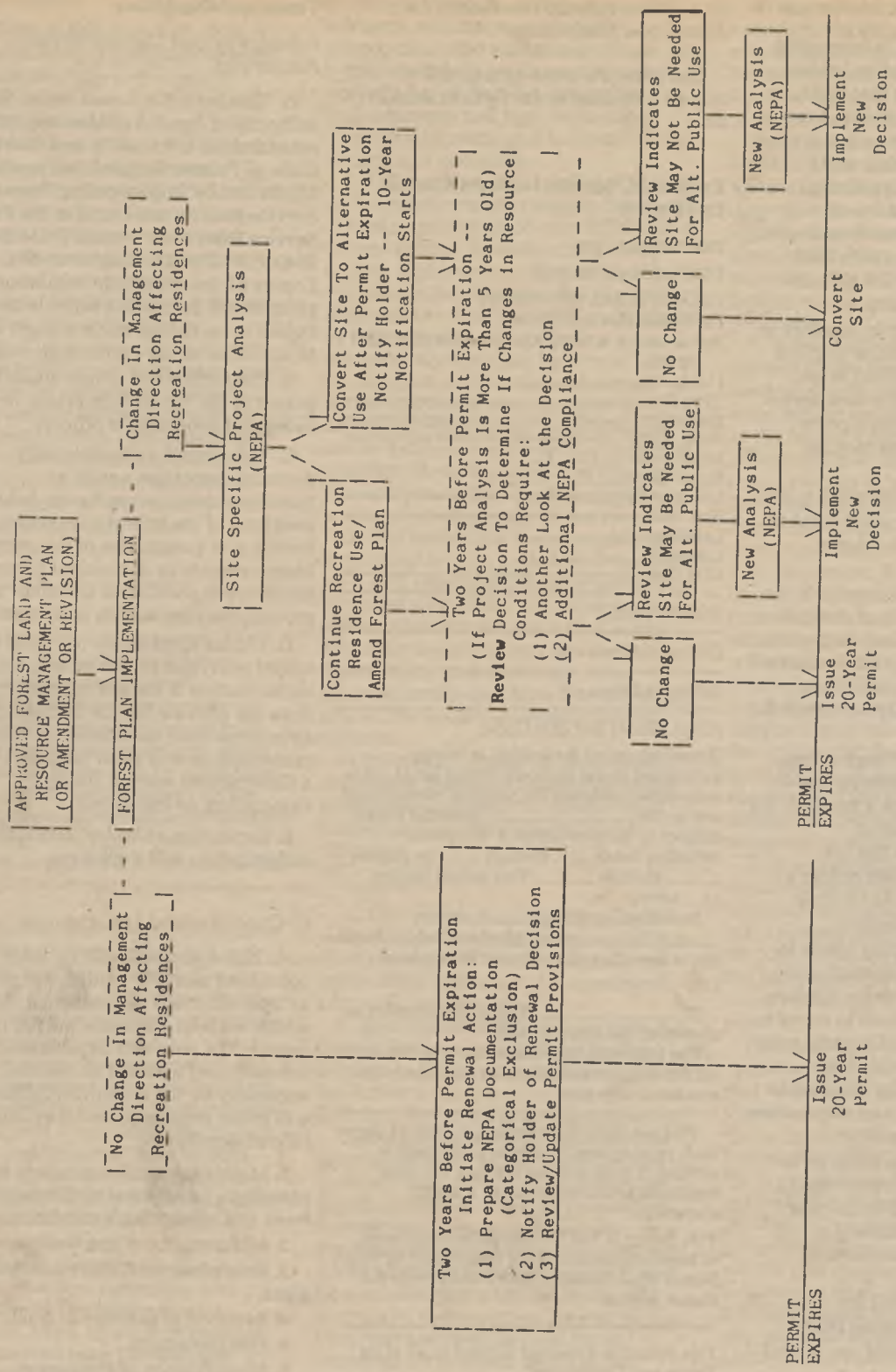
d. If review indicates that conditions have changed, initiate a new analysis including NEPA compliance to determine future use of the site.

e. Notify affected holders and interested publics in writing of review

findings, including notice that the result of the review is not appealable.

BILLING CODE 3410-11-M

EXHIBIT 01, SEC. 41.23a - PERMIT DECISION PROCESS



BILLING CODE 3410-11-C

41.23c In-Lieu Sites.

Pursuant to FSM 2347.1, paragraph 6, in-lieu sites may be offered to holders who have received notice that their permits are being terminated for reasons other than noncompliance or that a new permit will not be issued following expiration of their existing permits because the site is needed for an alternative public use. Identify and offer in-lieu sites in accordance with FSM 2347.1, paragraph 6 and FSM 2721.23f and follow these procedures:

1. When available, offer in-lieu lots to holders at the time that notice is given that the site will be converted to an alternative public use and a new permit will not be issued. Lots which come available within 12 months may be offered then.

2. Give first priority to identifying and offering in-lieu lots in the same tract or an expansion of that tract, where feasible.

3. Allow the holders 90 days from the date of the joint inspection of the in-lieu site or 90 days from the final disposition of any appeals of the decision to convert the site to an alternative public use, whichever is later, to accept or reject the offer.

4. When holders accept such offers, issue a new permit and reserve the offered lots. Do not charge a fee until the holder begins construction of improvements on the lot. The lot reservation will expire upon holder's failure to occupy the in-lieu lot on a mutually-agreed upon schedule.

5. Allow holders accepting offers to continue use of their current lots until the expiration date. Inform the holders that they should be prepared to move to the in-lieu lot during the 24 months prior to permit expiration, provided the supplemental review of the decision to convert the present site to an alternative public use has been completed.

6. The opportunity to develop an in-lieu lot, if accepted by the previous owner, shall be extended to the new owner, if eligible, when there is a change in ownership of authorized improvements.

7. Do not offer in-lieu lots for termination actions stemming from noncompliance with special use permit terms.

FOREST SERVICE HANDBOOK 2709.11—SPECIAL USES

CHAPTER 50—TERMS AND CONDITIONS

54 Special Use Authorizations

54.1 Term Special Use Permit for Recreation Residences

Use Form FS–2700–18 with all required clauses as set forth in exhibit 01.

Exhibit 01, Sec. 54.1—Term Special Use Permit

FS–2700–18 (3/91)

USDA—Forest Service

TERM SPECIAL USE PERMIT
For Recreation Residences
Act of March 4, 1915, As Amended (Ref. FSM 2710)
Holder No. ____/____
Type Site: ____
Authority: ____
Auth. Type: ____
Issue Date____/____/____
Expir. Date____/____/____
Location Sequence No: ____
Stat. Ref.: ____
Latitude____/____/____
Longitude____/____/____
LOS Case: ____

(Holder Name)

(Billing Address –1)

(Billing Address –2)

(City), (State) and (Zip Code)

(hereafter called the holder) is hereby authorized to use National Forest lands, for a recreation residence for personal recreational use on the _____ National Forest, subject to the provisions of this permit including items ____ through ____, on page(s) ____ through ____. This permit covers ____ acres.

Described as: (1) Lot _____ of the _____ tract. (A plat of which is on file in the office of the Forest Supervisor.)

OR

(2) _____ (Legal Description) as shown on the attached map.

The following improvements, whether on or off the site, are authorized in addition to the residence structure:

This use shall be exercised at least 15 days each year, unless otherwise authorized in writing. It shall not be used as a full-time residence to the exclusion of a home elsewhere.

This Permit is Not Transferable; Purchasers of Improvements on Sites Authorized by This Permit Must Secure a New Permit From the Forest Service

This Permit is Accepted Subject to all of its Terms and Conditions

Accepted: ____
Holder's Name and Signature and Date
Approved: ____

Authorized Officer's Name and Signature, Title and Date

Terms and Conditions

I. Authority and Use and Term Authorized

A. This permit is issued under the authority of the Act of March 4, 1915, as amended (16 U.S.C. 497), and title 36, Code of Federal Regulations, sections 251.50–251.64. Implementing Forest Service policies are found in the Forest Service Directives System (FSM 2720, 2340; FSH 2709.11, chapter 10–50). Copies of the applicable regulations and policies will be made available to the holder at no charge upon request made to the office of the Forest Supervisor.

B. The authorized officer under this permit is the Forest Supervisor, or a delegated subordinate officer.

C. This permit authorizes only personal recreation use of a noncommercial nature by the holder, members of the holder's immediate family, and guests. Use of the permitted improvements as a principal place of residence is prohibited and shall be grounds for termination of this permit.

D. Unless specifically provided as an added provision to this permit, this authorization is for site occupancy and does not provide for the furnishing of structures, road maintenance, water, fire protection, or any other such service by a Government agency, utility association, or individual.

E. Expiration at End of Term: This authorization will expire on

_____.

II. Operation and Maintenance

A. The authorized officer, after consulting with the holder, will prepare an operation and maintenance plan which shall be deemed a part of this permit. The plan will be reviewed annually and updated as deemed necessary by the authorized officer and will cover requirements for at least the following subjects:

1. Maintenance of vegetation, tree planting, and removal of dangerous trees and other unsafe conditions.

2. Maintenance of the facilities.

3. Size, placement and descriptions of signs.

4. Removal of garbage or trash.

5. Fire protection.

6. Identification of the person responsible for implementing the provisions of the plan, if other than the holder, and a list of names, addresses, and phone numbers of persons to contact in the event of an emergency.

III. Improvements

A. Nothing in this permit shall be construed to imply permission to build or maintain any improvement not specifically named on the face of this permit or approved in writing by the authorized officer in the operation and maintenance plan. Improvements requiring specific approval shall include, but are not limited to: Signs, fences, name plates, mailboxes, newspaper boxes, boathouses, docks, pipelines, antennas, and storage sheds.

B. All plans for development, layout, construction, reconstruction or alteration of improvements on the site, as well as revisions of such plans, must be prepared by a licensed engineer, architect, and/or landscape architect (in those states in which such licensing is required) or other qualified individual acceptable to the authorized officer. Such plans must be approved by the authorized officer before the commencement of any work.

IV. Responsibilities of Holder

A. The holder, in exercising the privileges granted by this permit, shall comply with all present and future regulations of the Secretary of Agriculture and all present and future Federal, State, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit. However, the Forest Service assumes no responsibility for enforcing laws, regulations, ordinances and the like which are under the jurisdiction of other government bodies.

B. The holder shall exercise diligence in preventing damage to the land and property of the United States. The holder shall abide by all restrictions on fires which may be in effect within the forest at any time and take all reasonable precautions to prevent and suppress forest fires. No material shall be disposed of by burning in open fires during a closed fire season established by law or regulation without written permission from the authorized officer.

C. The holder shall protect the scenic and esthetic values of the National Forest System lands as far as possible consistent with the authorized use, during construction, operation, and maintenance of the improvements.

D. No soil, trees, or other vegetation may be removed from the National Forest System lands without prior permission from the authorized officer. Permission shall be granted specifically, or in the context of the operations and maintenance plan for the permit.

E. The holder shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer. The holder shall fully repair and bear the expense for all damage, other than ordinary wear and tear, to National Forest lands, roads and trails caused by the holder's activities.

F. The holder assumes all risk of loss to the improvements resulting from acts of God or catastrophic events, including but not limited to, avalanches, rising waters, high winds, falling limbs or trees and other hazardous natural events. In the event the improvements authorized by this permit are destroyed or substantially damaged by acts of God or catastrophic events, the authorized officer will conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. The analysis will be provided to the holder within 6 months of the event.

G. The holder has the responsibility of inspecting the site, authorized rights-of-way, and adjoining areas for dangerous trees, hanging limbs, and other evidence of hazardous conditions which could affect the improvements and or pose a risk of injury to individuals. After securing permission from the authorized officer, the holder shall remove such hazards.

H. In case of change of permanent address or change in ownership of the recreation residence, the holder shall immediately notify the authorized officer.

V. Liabilities

A. This permit is subject to all valid existing rights and claims outstanding in third parties. The United States is not liable to the holder for the exercise of any such right or claim.

B. The holder shall hold harmless the United States from any liability from damage to life or property arising from the holder's occupancy or use of National Forest lands under this permit.

C. The holder shall be liable for any damage suffered by the United States resulting from or related to use of this permit, including damages to National Forest resources and costs of fire suppression. Without limiting available civil and criminal remedies which may be available to the United States, all timber cut, destroyed, or injured without authorization shall be paid for at stumpage rates which apply to the unauthorized cutting of timber in the state wherein the timber is located.

VI. Fees

A. Fee Requirement: This special use authorization shall require payment in advance of an annual rental fee.

B. Appraisals: 1. Appraisals to ascertain the fair market value of the site will be conducted by the Forest Service at least every 20 years. The next appraisal will be implemented in _____ (insert year).

2. Appraisals will be conducted and reviewed in a manner consistent with the Uniform Standards of Professional Appraisal Practice, from which the appraisal standards have been developed, giving accurate and careful consideration to all market forces and factors which tend to influence the value of the site.

3. If dissatisfied with an appraisal utilized by the Forest Service in ascertaining the permit fee, the holder may employ another qualified appraiser at the holder's expense. The authorized officer will give full and complete consideration to both appraisals provided the holder's appraisal meets Forest Service standards. If the two appraisals disagree in value by more than 10 percent, the two appraisers will be asked to try and reconcile or reduce their differences. If the appraisers cannot agree, the Authorized Officer will utilize either or both appraisals to determine the fee. When requested by the holder, a third appraisal may be obtained with the cost shared equally by the holder and the Forest Service. The third appraisal must meet the same standards of the first and second appraisals and may or may not be accepted by the authorized officer.

C. Fee Determination: 1. The annual rental fee shall be determined by appraisal and other sound business management principles. (36 CFR 251.57(a)) The fee shall be 5 percent of the appraised fair market fee simple value of the site for recreation residence use.

Fees will be predicated on an appraisal of the site as a base value, and that value will be adjusted in following years by utilizing the percent of change in the Implicit Price Deflator—Gross National Product (IPD–GNP) index as of the previous June 30. A fee from a prior year will be adjusted upward or downward, as the case may be, by the percentage change in the IPD–GNP, except that the maximum annual fee adjustment shall be 10 percent when the IPD–GNP index exceeds 10 percent in any one year with the amount in excess of 10 percent carried forward to the next succeeding year where the IPD–GNP index is less than 10 percent. The base rate from which the fee is adjusted will be changed with each new appraisal of the site, at least every 20 years.

2. If the holder has received notification that a new permit will not

be issued following expiration of this permit, the annual fee in the tenth year will be taken as the base, and the fee each year during the last 10-year period will be one-tenth of the base multiplied by the number of years then remaining on the permit. If a new term permit should later be issued, the holder shall pay the United States the total amount of fees foregone, for the most recent 10-year period in which the permittee has been advised that a new permit will not be issued. This amount may be paid in equal annual installments over a 10-year period in addition to those fees for existing permits. Such amounts owing will run with the property and will be charged to any subsequent purchaser of the improvements.

D. Initial Fee: The initial fee may be based on an approved Forest Service appraisal existing at the time of this permit, with the present day value calculated by applying the IPD–GNP index to the intervening years.

E. Payment Schedule: Based on the criteria stated herein, the initial payment is set at $_____ per year and the fee is due and payable annually on _____ (insert date). Payments will be credited on the date received by the designated collection officer or deposit location. If the due date(s) for any of the above payments or fee calculation statements fall on a nonworkday, the charges shall not apply until the close of business of the next workday. Any payments not received within 30 days of the due date shall be delinquent.

F. Interest and Penalties: 1. A fee owed the United States which is delinquent will be assessed interest based on the most current rate prescribed by the United States Department of Treasury Financial Manual (TFM–6–8020). Interest shall accrue on the delinquent fee from the date the fee payment was due and shall remain fixed during the duration of the indebtedness.

2. In addition to interest, certain processing, handling, and administrative costs will be assessed on delinquent accounts and added to the amounts due.

3. A penalty of 6 percent per year shall be assessed on any indebtedness owing for more than 90 days. This penalty charge will not be calculated until the 91st day of delinquency, but shall accrue from the date that the debt became delinquent.

4. When a delinquent account is partially paid or made in installments, amounts received shall be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal.

G. Nonpayment Constitutes Breach: Failure of the holder to make the annual payment, penalty, interest, or any other charges when due shall be grounds for termination of this authorization. However, no permit will be terminated for nonpayment of any monies owed the United States unless payment of such monies is more than 90 days in arrears.

H. Applicable Law: Delinquent fees and other charges shall be subject to all the rights and remedies afforded the United States pursuant to federal law and implementing regulations. (31 U.S.C. 3711 *et seq.*).

VII. Transfer, Sale, and Rental

A. Nontransferability: Except as provided in this section, this permit is not transferable.

B. Transferability Upon Death of the Holder: 1. If the holder of this permit is a married couple and one spouse dies, this permit will continue in force, without amendment or revision, in the name of the surviving spouse.

2. If the holder of this permit is an individual who dies during the term of this permit and there is no surviving spouse, an annual renewable permit will be issued, upon request, to the executor or administrator of the holder's estate. Upon settlement of the estate, a new permit incorporating current Forest Service policies and procedures will be issued for the remainder of the deceased holder's term to the properly designated heir(s) as shown by an order of a court, bill of sale, or other evidence to be the owner of the improvements.

C. Divestiture of Ownership: If the holder through voluntary sale, transfer, enforcement of contract, foreclosure, or other legal proceeding shall cease to be the owner of the physical improvements, this permit shall be terminated. If the person to whom title to said improvements is transferred is deemed by the authorizing officer to be qualified as a holder, then such person to whom title has been transferred will be granted a new permit. Such new permit will be for the remainder of the term of the original holder.

D. Notice of Prospective Purchasers: When considering a voluntary sale of the recreation residence, the holder shall provide a copy of this special use permit to the prospective purchaser before finalizing the sale. The holder cannot make binding representations to the purchasers as to whether the Forest Service will reauthorize the occupancy.

E. Rental: The holder may rent or sublet the use of improvements covered under this permit only with the express written permission of the authorized officer. In the event of an authorized rental or sublet, the holder shall continue to be responsible for compliance with all conditions of this permit by persons whom such premises may be sublet.

VIII. Termination

A. Termination for Cause: This permit may be terminated for cause by the authorized officer upon breach of any of the terms and conditions of this permit or applicable law. Prior to such termination for cause, the holder shall be given notice and provided a reasonable time—not to exceed ninety (90) days—within which to correct the breach.

B. Termination in the Public Interest During the Permit Term: 1. This permit may be revoked or terminated during its term at the discretion of the authorized officer for reasons in the public interest. (36 CFR 251.60(b)). In the event of such termination in the public interest, the holder shall be given one hundred and eighty (180) days prior written notice to vacate the premises, provided that the authorized officer may prescribe a date for a shorter period in which to vacate ("prescribed vacancy date") if the public interest objective reasonably requires the site in a shorter period of time.

2. The Forest Service and the holder agree that in the event of a termination in the public interest, the holder shall be paid damages. Termination in the public interest and payment of damages is subject to the availability of funds or appropriations.

a. Damages in the event of a public interest termination shall be the lesser amount of either (1) the cost of relocation of the approved improvements to another site which may be authorized for residential occupancy (but not including the costs of damages incidental to the relocation which are caused by the negligence of the holder or a third party), or (2) the replacement costs of the approval improvements as of the date of termination. Replacement cost shall be determined by the Forest Service utilizing standard appraisal procedures giving full consideration to the improvement's condition, remaining economic life and location, and shall be the estimated cost to construct, at current prices, a building with utility equivalent to the building being appraised using modern materials and current standards, design and layout as of the date of termination. If termination in the public interest occurs after the holder has received notification that a new permit will not be issued following expiration of the current permit, then the amount of damages shall be adjusted as of the date of termination by multiplying the replacement cost by a fraction which

has as the numerator the number of full months remaining to the term of the permit prior to termination (measured from the date of the notice of termination) and as the denominator, the total number of months in the original term of the permit.

b. The amount of the damages determined in accordance with paragraph a. above shall be fixed by mutual agreement between the authorized officer and the holder and shall be accepted by the holder in full satisfaction of all claims against the United States under this clause: *Provided,* That if mutual agreement is not reached, the authorized officer shall determine the amount and if the holder is dissatisfied with the amount to be paid may appeal the determination in accordance with the Appeal Regulations (36 CFR 251.84) and the amount as determined on appeal shall be final and conclusive on the parties hereto: *Provided further,* That upon the payment to the holder of the amount fixed by the authorized officer, the right of the Forest Service to remove or require the removal of the improvements shall not be stayed pending final decision on appeal.

IX. Issuance of a New Permit

A. Decisions to issue a new permit or convert the site to an alternative public use require a determination of consistency with the Forest Land and Resource Management Plan (Forest plan)

1. Where continued use is consistent with the Forest plan, the authorized officer shall, two years prior to permit expiration, complete the appropriate environmental documentation necessary to issue a new permit and notify the holder of the decision.

2. If, as a result of an amendment or revision of the Forest Plan, the site is within an area allocated to an alternative public use, the authorized officer shall, in implementing the Forest plan, conduct a project analysis to determine the range and intensity of the alternative public use.

a. If the project analysis results in a finding that the use of the site for a recreation residence may continue, the holder shall be notified in writing, and a new term permit shall be issued following expiration of the current permit.

b. If the project analysis results in a decision that the site shall be converted to an alternative public use, the holder shall be notified in writing and given at least 10 years continued occupancy. The holder shall be given a copy of the project analysis, environmental documentation, and decision document.

c. A decision resulting from a project analysis shall be reviewed two years prior to permit expiration, except when such decision is made within 5 years of the expiration date of the current permit If this review indicates that the conditions resulting in the decision are unchanged, then the decision (either continuance of the use or conversion to another use) stands. If this review indicates that conditions have changed, a new project analysis shall be made to determine the proper action.

B. In issuing a new permit, the authorized officer may include terms, conditions, and special stipulations that reflect new requirements imposed by current Federal and State land use plans, laws, regulations, or other management decisions. (36 CFR 251.64)

C. If the 10-year continued occupancy given a holder who receives notification that a new permit will not be issued would extend beyond the expiration date of the current permit, a new term permit shall be issued for the remaining portion of the 10-year period.

X. Rights and Responsibilities Upon Termination or Notification That a New Permit Will Not be Issued Following Expiration of This Permit

A. Removal of Improvements Upon Termination or Notification That A New Permit Will Not Be Issued Following Expiration Of This Permit: At the end of the term of occupancy authorized by this permit, or upon abandonment, or termination for cause, Act of God, or catastrophic event, or in the public interest, the holder shall remove within a reasonable time all structures and improvements except those owned by the United States, and shall return the site to a condition approved by the authorized officer unless otherwise agreed to in writing or in this permit. If the holder fails to remove all such structures or improvements within a reasonable period—not to exceed one hundred and eighty (180) days from the date of authorization of occupancy is ended—the improvements shall become the property of the United States, but in such event, the holder remains obligated and liable for the cost of their removal and the restoration of the site.

B. In case of termination or notification that a new permit will not be issued following expiration of this permit, except if termination is for cause, the authorized officer may offer an in-lieu site to the permit holder for building or relocation of improvements. Such sites will be nonconflicting locations within the National Forest containing the residence being terminated or under notification that a new permit will not be issued or in adjacent National Forests. Any in-lieu site offered the holder must be accepted within 90 days of the offer or within 90 days of the final disposition of an appeal on the termination or notification that a new permit will not be issued under the Secretary of Agriculture's administrative appeal regulations, whichever is later, or this opportunity will terminate.

XI. Miscellaneous Provisions

A. This permit replaces a special use permit issued to:

(Holder Name)

On _____, 19____.

(Date)

B. The Forest Service reserves the right to enter upon the property to inspect for compliance with the terms of this permit. Reports on inspection for compliance will be furnished to the holder.

C. Issuance of this permit shall not be construed as an admission by the Government as to the title to any improvements. The Government disclaims any liability for the issuance of any permit in the event of disputed title.

D. If there is a conflict between the foregoing standard printed clauses and any special clauses added to the permit, the standard printed clauses shall control.

[FR Doc. 91-24032 Filed 10-9-91; 8:45 am]

BILLING CODE 3410-11-M

federal register

Thursday
October 10, 1991

Part III

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for JULY 1991; Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53145; FRL 3949-9]

Premanufacture Notices; Monthly Status Report for JULY 1991

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substance Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption request pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for JULY 1991.

Nonconfidential portions of the PMNs and exemption request may be seen in the TSCA Public Docket Office NE-G004 at the address below between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

ADDRESSES: Written comments, identified with the document control number "(OPTS-53145)" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Rm. L-100, Washington, DC 20460, (202) 260-1532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC 20460 (202) 260-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during JULY; (b) PMNs received previously and still under review at the end of JULY; (c) PMNs for which the notice review period has ended during JULY; (d) chemical substances for which EPA has received a notice of commencement to manufacture during JULY; and (e) PMNs for which the review period has been suspended. Therefore, the JULY 1991 PMN Status Report is being published.

Dated: September 24, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

Premanufacture Notice Monthly Status Report for JULY 1991.

I. 117 Premanufacture notices and exemption requests received during the month:

PMN No.

P 91-1175 P 91-1176 P 91-1177 P 91-1178
P 91-1179 P 91-1180 P 91-1181 P 91-1182
P 91-1183 P 91-1184 P 91-1185 P 91-1186
P 91-1187 P 91-1188 P 91-1189 P 91-1190
P 91-1191 P 91-1192 P 91-1193 P 91-1194
P 91-1195 P 91-1196 P 91-1197 P 91-1198
P 91-1199 P 91-1200 P 91-1201 P 91-1202
P 91-1203 P 91-1204 P 91-1205 P 91-1206
P 91-1207 P 91-1208 P 91-1209 P 91-1210
P 91-1211 P 91-1212 P 91-1213 P 91-1214
P 91-1215 P 91-1216 P 91-1218 P 91-1219
P 91-1220 P 91-1221 P 91-1222 P 91-1223
P 91-1224 P 91-1225 P 91-1226 P 91-1227
P 91-1228 P 91-1229 P 91-1230 P 91-1231
P 91-1232 P 91-1233 P 91-1234 P 91-1235
P 91-1236 P 91-1237 P 91-1238 P 91-1239
P 91-1240 P 91-1241 P 91-1242 P 91-1243
P 91-1244 P 91-1245 P 91-1246 P 91-1247
P 91-1248 P 91-1249 P 91-1250 P 91-1251
P 91-1252 P 91-1253 P 91-1254 P 91-1255
P 91-1256 P 91-1257 P 91-1258 P 91-1259
P 91-1260 P 91-1261 P 91-1262 P 91-1263
P 91-1264 P 91-1265 P 91-1266 P 91-1267
P 91-1268 P 91-1269 P 91-1270 P 91-1271
P 91-1272 P 91-1273 P 91-1274 P 91-1275
Y 91-0175 Y 91-0176 Y 91-0177 Y 91-0178
Y 91-0179 Y 91-0180 Y 91-0181 Y 91-0182
Y 91-0183 Y 91-0184 Y 91-0185 Y 91-0186
Y 91-0187 Y 91-0188 Y 91-0189 Y 91-0190
Y 91-0191

II. 329 Premanufacture notices received previously and still under review at the end of the month:

PMN No.

P 83-0237 P 84-0660 P 84-0713 P 85-0433
P 85-0619 P 85-1184 P 86-1489 P 86-1607
P 87-0105 P 87-0323 P 87-0502 P 87-1555
P 87-1872 P 88-0217 P 88-0319 P 88-0320
P 88-0831 P 88-0998 P 88-0999 P 88-1271
P 88-1272 P 88-1273 P 88-1274 P 88-1682
P 88-1753 P 88-1761 P 88-1807 P 88-1809
P 88-1811 P 88-1937 P 88-1938 P 88-1980
P 88-1982 P 88-1984 P 88-1985 P 88-1999
P 88-2000 P 88-2001 P 88-2100 P 88-2169
P 88-2196 P 88-2212 P 88-2213 P 88-2228
P 88-2229 P 88-2230 P 88-2236 P 88-2484
P 88-2518 P 88-2529 P 89-0089 P 89-0090
P 89-0091 P 89-0254 P 89-0321 P 89-0385
P 89-0386 P 89-0387 P 89-0396 P 89-0538
P 89-0589 P 89-0650 P 89-0676 P 89-0721
P 89-0775 P 89-0867 P 89-0957 P 89-0958
P 89-0959 P 89-0963 P 89-1038 P 89-1058
P 90-0002 P 90-0009 P 90-0142 P 90-0158
P 90-0159 P 90-0211 P 90-0237 P 90-0248
P 90-0249 P 90-0260 P 90-0261 P 90-0262
P 90-0263 P 90-0347 P 90-0372 P 90-0441
P 90-0550 P 90-0564 P 90-0581 P 90-0603
P 90-0608 P 90-0707 P 90-1280 P 90-1311
P 90-1318 P 90-1319 P 90-1320 P 90-1321
P 90-1322 P 90-1384 P 90-1422 P 90-1464
P 90-1511 P 90-1527 P 90-1528 P 90-1529
P 90-1530 P 90-1531 P 90-1555 P 90-1556
P 90-1564 P 90-1592 P 90-1624 P 90-1687
P 90-1720 P 90-1722 P 90-1723 P 90-1728
P 90-1730 P 90-1745 P 90-1797 P 90-1840
P 90-1893 P 90-1937 P 90-1965 P 90-1973
P 90-1984 P 90-1985 P 91-0004 P 91-0043
P 91-0051 P 91-0074 P 91-0101 P 91-0102
P 91-0107 P 91-0108 P 91-0109 P 91-0110
P 91-0111 P 91-0112 P 91-0113 P 91-0118
P 91-0173 P 91-0174 P 91-0175 P 91-0176
P 91-0177 P 91-0178 P 91-0179 P 91-0180
P 91-0181 P 91-0182 P 91-0183 P 91-0184
P 91-0222 P 91-0228 P 91-0230 P 91-0231
P 91-0232 P 91-0233 P 91-0242 P 91-0243
P 91-0244 P 91-0245 P 91-0246 P 91-0247
P 91-0248 P 91-0252 P 91-0253 P 91-0288
P 91-0328 P 91-0337 P 91-0358 P 91-0363
P 91-0391 P 91-0442 P 91-0451 P 91-0464
P 91-0465 P 91-0466 P 91-0467 P 91-0468
P 91-0469 P 91-0470 P 91-0471 P 91-0472
P 91-0487 P 91-0490 P 91-0501 P 91-0503
P 91-0514 P 91-0521 P 91-0525 P 91-0527
P 91-0532 P 91-0541 P 91-0548 P 91-0572
P 91-0584 P 91-0600 P 91-0602 P 91-0619
P 91-0627 P 91-0659 P 91-0665 P 91-0666
P 91-0688 P 91-0689 P 91-0701 P 91-0732
P 91-0763 P 91-0774 P 91-0775 P 91-0809
P 91-0818 P 91-0826 P 91-0827 P 91-0831
P 91-0853 P 91-0899 P 91-0902 P 91-0903
P 91-0905 P 91-0912 P 91-0914 P 91-0915
P 91-0934 P 91-0935 P 91-0936 P 91-0937
P 91-0939 P 91-0940 P 91-0941 P 91-0968
P 91-1000 P 91-1009 P 91-1010 P 91-1011
P 91-1012 P 91-1013 P 91-1014 P 91-1015
P 91-1016 P 91-1017 P 91-1018 P 91-1019
P 91-1020 P 91-1021 P 91-1022 P 91-1023
P 91-1024 P 91-1025 P 91-1026 P 91-1027
P 91-1028 P 91-1029 P 91-1030 P 91-1031
P 91-1032 P 91-1033 P 91-1034 P 91-1035
P 91-1036 P 91-1037 P 91-1038 P 91-1039
P 91-1040 P 91-1041 P 91-1042 P 91-1043
P 91-1044 P 91-1045 P 91-1046 P 91-1047
P 91-1048 P 91-1049 P 91-1050 P 91-1051
P 91-1052 P 91-1053 P 91-1054 P 91-1055
P 91-1056 P 91-1057 P 91-1058 P 91-1059
P 91-1060 P 91-1061 P 91-1062 P 91-1063
P 91-1064 P 91-1065 P 91-1066 P 91-1067
P 91-1068 P 91-1069 P 91-1070 P 91-1071
P 91-1072 P 91-1073 P 91-1074 P 91-1075
P 91-1077 P 91-1086 P 91-1101 P 91-1102
P 91-1116 P 91-1117 P 91-1118 P 91-1122
P 91-1123 P 91-1124 P 91-1125 P 91-1126
P 91-1127 P 91-1128 P 91-1129 P 91-1131
P 91-1141 P 91-1143 P 91-1153 P 91-1154
P 91-1161 P 91-1162 P 91-1163 P 91-1164
P 91-1173

III. 127 Premanufacture notices and exemption request for which the notice review period has ended during the month. (Expiration of the notice review period does not signify that the chemical has been added to the Inventory).

PMN No.

P 85-0619 P 88-2231 P 88-2237 P 89-0225
P 89-1010 P 90-1358 P 90-1413 P 90-1809
P 90-1844 P 90-1845 P 90-1846 P 91-0403
P 91-0508 P 91-0509 P 91-0581 P 91-0625
P 91-0641 P 91-0642 P 91-0643 P 91-0644
P 91-0668 P 91-0681 P 91-0698 P 91-0718
P 91-0757 P 91-0758 P 91-0759 P 91-0761
P 91-0762 P 91-0764 P 91-0765 P 91-0766
P 91-0767 P 91-0768 P 91-0769 P 91-0770
P 91-0771 P 91-0772 P 91-0773 P 91-0776
P 91-0777 P 91-0779 P 91-0780 P 91-0781
P 91-0782 P 91-0783 P 91-0784 P 91-0785

P 91-0786 P 91-0787 P 91-0788 P 91-0789 P 91-0815 P 91-0816 P 91-0817 P 91-0819 Y 91-0156 Y 91-0157 Y 91-0158 Y 91-0159
P 91-0790 P 91-0791 P 91-0792 P 91-0793 P 91-0820 P 91-0821 P 91-0822 P 91-0823 Y 91-0160 Y 91-0161 Y 91-0162 Y 91-0163
P 91-0794 P 91-0795 P 91-0796 P 91-0797 P 91-0824 P 91-0825 P 91-0828 P 91-0829 Y 91-0164 Y 91-0165 Y 91-0166 Y 91-0167
P 91-0798 P 91-0799 P 91-0800 P 91-0801 P 91-0830 P 91-0832 P 91-0833 P 91-0834 Y 91-0168 Y 91-0169 Y 91-0170 Y 91-0171
P 91-0802 P 91-0803 P 91-0804 P 91-0805 P 91-0835 P 91-0836 P 91-0837 P 91-0838 Y 91-0172 Y 91-0173 Y 91-0174 Y 91-0175
P 91-0806 P 91-0807 P 91-0808 P 91-0810 P 91-0843 P 91-0844 P 91-0845 P 91-0846 Y 91-0176 Y 91-0177 Y 91-0178
P 91-0811 P 91-0812 P 91-0813 P 91-0814 P 91-0847 P 91-0848 P 91-0849 Y 91-0153

IV. 84 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Identity/Generic Name	Date of Commencement
P 80-0321	G Polymer of an alkyl acrylate, an alkyl methacrylate, and a saturated cyclic methacrylate	October 26, 1981.
P 83-0237	G Substituted pyridine	April 11, 1983.
P 83-0722	G Alkyl acrylate copolymer	June 9, 1991.
P 84-0027	G Polyol carboxylate ester	May 10, 1984.
P 86-0066	G Substituted triazine isocyanurate	July 12, 1989.
P 86-0431	G Poly(ether amide)	April 18, 1991.
P 87-0544	Octanol isopropane	May 17, 1991.
P 87-0715	G Carboxyethylated complex tall oil polyalkylene polyamine	June 2, 1987.
P 87-1717	G C.I. reactive yellow 86	October 17, 1988.
P 87-1881	G Cycloaliphatic amine	June 10, 1991.
P 87-1882	G Cycloaliphatic amine	June 10, 1991.
P 88-0081	G Dialkylester of cycloalkyl spiropetal	May 20, 1991.
P 88-0082	G Substituted malonate	May 19, 1991.
P 88-0083	G bis(2,2,6,6-tetramethylpiperidnal) ester of cycloalkyl spiroketal	May 30, 1991.
P 88-0796	Lignosulfonic acid, triethanolamine salt	May 28, 1991.
P 88-1793	G Imidazolazo dye derivative	November 28, 1988.
P 88-2359	G Amine-sulfonate salt	June 15, 1991.
P 89-0249	G Acrylic solution polymer	May 20, 1989.
P 89-0683	6'-(dipentylamino)-3'-methyl-2'-(phenylamino)-spiro(isobenzofuran-1(3*H*)-9'(9*H*)xanthen)-3-one	May 17, 1991.
P 89-0746	G Acrylic copolymer	October 4, 1989.
P 89-0747	G Acrylic copolymer	October 4, 1989.
P 89-0769	G Resorcinol-formaldehyde resin	June 26, 1990.
P 89-0809	G Modified polyisoprene	October 2, 1991.
P 89-1025	G Dodecanedioic acid, diisotridecyl ester	June 28, 1991.
P 89-1062	G Polyether amide	June 1, 1991.
P 89-1067	G Polypeptide	May 28, 1991.
P 90-0012	G Modified acrylic polymer	January 9, 1990.
P 90-0154	G Modified polyethylene copolymer	June 21, 1991.
P 90-0193	G Fatty acids, C_{18}-unsaturated, dimers, polymers with a diamine, a dicarboxylic acid, ethylenediamine and monocarboxylic acid, ammonium salts.	June 6, 1991.
P 90-0250	Aqua ammonia 26°Baume, acrylic resin	May 17, 1990.
P 90-0281	Zirconium (IV), bis (bis 2,2-propenolato methyl)butanolato, cycle(bis 2,2-propenolato methyl)pentathio diphosphato-*O-O*	May 17, 1991.
P 90-0321	G Acrylic copolymer	May 6, 1991.
P 90-0354	G Modified acrylic polymer	August 8, 1990.
P 90-1058	G Acrylic copolymers and salts thereof: styrene/acrylic copolylmers and salts thereof	October 15, 1990.
P 90-1383	G Polyester resin	June 18, 1991.
P 90-1409	G Silicone acrylate	June 20, 1991.
P 90-1414	G Tricycloalkanol, 4-alkyl-8-methylene	June 7, 1991.
P 90-1475	G Modified acrylic polymer	October 11, 1990.
P 90-1577	G Alkoxylated aromatic amine	July 10, 1991.
P 90-1594	G Sulfonated polystyrene-formaldehyde polymer	June 6, 1991.
P 90-1831	G Polymer of aryl alkyl epoxy compound with dibasic fatty acid, monobasic fatty acid, triethylenetetramine, phenol and an aldehyde.	May 24, 1991.
P 90-1856	G Substituted carboxylic acid	June 20, 1991.
P 90-1871	G Higher alkyl methacrylates copolymer	May 24, 1991.
P 90-1874	1-Penten-3-ol, 1-(2,6,-trimethyl-1-cyclohexen-1-yl)-	July 5, 1991.
P 91-0011	G Urethane acrylate	June 19, 1991.
P 91-0125	G Metal salt of monoazo dye	May 15, 1991.
P 91-0148	G Azo dyestuff	June 24, 1991.
P 91-0149	G Azo dyestuff	June 24, 1991.
P 91-0203	G Substituted heteromonocyclic	July 1, 1991.
P 91-0210	G Methacrylate polyurethane	June 3, 1991.
P 91-0237	G Alkylamine carboxtylate	May 2, 1991.
P 91-0306	G Heterocycloc sulfenylic amine	July 9, 1991.
P 91-0321	G Polyisophorone substituted-hexamethylene substituted-poly	March 19, 1991.
P 91-0326	G 2-Hydroxyethylcellulose-2-cyanoethyl ether	June 6, 1991.
P 91-0353	G Metal alkyl salicylate	June 28, 1991.
P 91-0379	Phosphoric acid, mixed decyl, ethyl, and octyl ester, potassium salt	June 20, 1991.
P 91-0397	G Modified acrylate polymer, ammonium salt	May 23, 1991.
P 91-0448	G Per halo butyric acid ester	May 21, 1991.
P 91-0449	G Per halo crotonic acid ester	May 21, 1991.
P 91-0473	G Polyester urethane	June 7, 1991.
P 91-0491	1-Pentene-3-l, 1-(2,6,6-trimethyl-1-cyclohexen-1-yl-), acetate	July 8, 1991.
P 91-0497	G Poly(organo)siliane	May 22, 1991.
P 91-0529	G Organopolysiloxane	July 3, 1991.
P 91-0550	G Reaction product of substituted anilines, sodium carbonate, aniline, and sulfur	June 19, 1991.
P 91-0588	G Salt of yellow sulfonated naphthalene azo dye for inkjet printing	June 25, 1991.
P 91-0589	G Polymer MDI prepolymer	June 27, 1991.

IV. 84 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture—Continued

PMN No.	Identity/Generic Name	Date of Commencement
P 91-0603	G Blocked polyurethane prepolymer	June 18, 1991.
P 91-0627	Modified maleic anhydride/terpentine resin	June 22, 1991.
P 91-0634	G Acrylate/polyalkoxy alkenyl ether copolymer	June 12, 1991.
P 91-0635	G Acrylate/polyalkyloxy alkenyl ether copolymer	June 13, 1991.
P 91-0656	G Substituted alkane anilide	June 14, 1991.
P 91-0660	G Substituted heterocycle benzoic acid	June 18, 1991.
P 91-0670	G Fluorinated co-telomer	June 17, 1991.
P 91-0671	G Fluorinated co-telomer	June 17, 1991.
P 91-0736	G Copolymer of alkaenoic acid alkyd ester, substituted acrylonitrile and acrylonitrile, crosslinked	July 1, 1991.
Y 87-0219	G Co-polyester	May 1, 1991.
Y 88-0300	G Alkyd resin	May 30, 1991.
Y 90-0007	G Acrylic polymer	June 25, 1991.
Y 90-0011	G Partial sodium salt of an acrylic polymer	May 8, 1990.
Y 90-0022	G Modified acrylic polymer	January 20, 1990.
Y 90-0043	G Aqueous acrylic copolymer and its salt	October 12, 1990.
Y 90-0237	G Unsaturated polyester	June 20, 1991.
Y 91-0043	G Polymer of aromatic diamine with benzophenone based anhydride	July 9, 1991.
Y 91-0119	G Polyurethane polyol solution	June 5, 1991.

V. 31Premanufacture notices for which the Period has been suspended.

PMN No.

P 90-0260 P 90-0261 P 90-0262 P 90-0263
P 90-1720 P 90-1721 P 90-1722 P 90-1723
P 91-0600 P 91-0667 P 91-0763 P 91-0774
P 91-0775 P 91-0790 P 91-0809 P 91-0817
P 91-0818 P 91-0826 P 91-0827 P 91-0839
P 91-0840 P 91-0841 P 91-0842 P 91-1122
P 91-1123 P 91-1124 P 91-1125 P 91-1126
P 91-1127 P 91-1128 P 91-1129

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federal register

Thursday
October 10, 1991

Part IV

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for AUGUST 1991; Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53146; FRL 3950-1]

Premanufacture Notices; Monthly Status Report for AUGUST 1991

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substance Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption request pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for AUGUST 1991.

Nonconfidential portions of the PMNs and exemption request may be seen in the TSCA Public Docket Office NE-G004 at the address below between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

ADDRESSES: Written comments, identified with the document control number "(OPTS-53146)" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., rm. L-100, Washington, DC 20460, (202) 260-1532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC 20460 (202) 260-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during AUGUST; (b) PMNs received previously and still under review at the end of AUGUST; (c) PMNs for which the notice review period has ended during AUGUST; (d) chemical substances for which EPA has received a notice of commencement to manufacture during AUGUST; and (e) PMNs for which the review period has been suspended. Therefore, the AUGUST 1991 PMN Status Report is being published.

Dated: September 24, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

Premanufacture Notice Monthly Status Report for AUGUST 1991.

I. 115 Premanufacture notices and exemption requests received during the month:

PMN No.

P 91-1276 P 91-1277 P 91-1278 P 91-1279
P 91-1280 P 91-1281 P 91-1282 P 91-1283
P 91-1284 P 91-1285 P 91-1286 P 91-1287
P 91-1288 P 91-1289 P 91-1290 P 91-1291
P 91-1292 P 91-1293 P 91-1294 P 91-1295
P 91-1296 P 91-1297 P 91-1298 P 91-1299
P 91-1300 P 91-1301 P 91-1302 P 91-1303
P 91-1304 P 91-1305 P 91-1306 P 91-1307
P 91-1308 P 91-1309 P 91-1310 P 91-1311
P 91-1312 P 91-1313 P 91-1314 P 91-1315
P 91-1316 P 91-1317 P 91-1318 P 91-1319
P 91-1320 P 91-1321 P 91-1322 P 91-1323
P 91-1324 P 91-1325 P 91-1326 P 91-1327
P 91-1328 P 91-1329 P 91-1330 P 91-1331
P 91-1332 P 91-1333 P 91-1334 P 91-1335
P 91-1336 P 91-1337 P 91-1338 P 91-1339
P 91-1340 P 91-1341 P 91-1342 P 91-1343
P 91-1344 P 91-1345 P 91-1346 P 91-1347
P 91-1348 P 91-1349 P 91-1350 P 91-1351
P 91-1352 P 91-1353 P 91-1354 P 91-1355
P 91-1356 P 91-1357 P 91-1358 P 91-1359
P 91-1360 P 91-1361 P 91-1362 P 91-1363
P 91-1365 P 91-1366 P 91-1367 P 91-1368
P 91-1369 Y 91-0192 Y 91-0193 Y 91-0194
Y 91-0195 Y 91-0196 Y 91-0197 Y 91-0198
Y 91-0199 Y 91-0200 Y 91-0201 Y 91-0202
Y 91-0203 Y 91-0204 Y 91-0205 Y 91-0206
Y 91-0207 Y 91-0208 Y 91-0209 Y 91-0210
Y 91-0211 Y 91-0212 Y 91-0213

II. 350 Premanufacture notices received previously and still under review at the end of the month:

PMN No.

P 83-0237 P 84-0660 P 84-0713 P 85-0433
P 85-0619 P 85-1184 P 86-1489 P 86-1607
P 87-0105 P 87-0323 P 87-0502 P 87-1555
P 87-1872 P 88-0217 P 88-0319 P 88-0320
P 88-0831 P 88-0998 P 88-0999 P 88-1271
P 88-1272 P 88-1273 P 88-1274 P 88-1682
P 88-1753 P 88-1761 P 88-1807 P 88-1809
P 88-1811 P 88-1937 P 88-1938 P 88-1980
P 88-1982 P 88-1984 P 88-1985 P 88-1999
P 88-2000 P 88-2001 P 88-2100 P 88-2169
P 88-2196 P 88-2212 P 88-2213 P 88-2228
P 88-2229 P 88-2230 P 88-2236 P 88-2484
P 88-2518 P 88-2529 P 89-0089 P 89-0090
P 89-0091 P 89-0254 P 89-0321 P 89-0385
P 89-0386 P 89-0387 P 89-0396 P 89-0538
P 89-0589 P 89-0650 P 89-0676 P 89-0721
P 89-0775 P 89-0867 P 89-0957 P 89-0958
P 89-0959 P 89-0963 P 89-1038 P 89-1058
P 90-0002 P 90-0009 P 90-0142 P 90-0158
P 90-0159 P 90-0211 P 90-0237 P 90-0248
P 90-0249 P 90-0260 P 90-0261 P 90-0262
P 90-0263 P 90-0347 P 90-0372 P 90-0441
P 90-0550 P 90-0564 P 90-0581 P 90-0603
P 90-0608 P 90-0707 P 90-1280 P 90-1311
P 90-1318 P 90-1319 P 90-1320 P 90-1321
P 90-1322 P 90-1384 P 90-1422 P 90-1464
P 90-1511 P 90-1527 P 90-1528 P 90-1529
P 90-1530 P 90-1531 P 90-1555 P 90-1556
P 90-1564 P 90-1592 P 90-1624 P 90-1687
P 90-1720 P 90-1722 P 90-1723 P 90-1728
P 90-1730 P 90-1745 P 90-1797 P 90-1840
P 90-1893 P 90-1937 P 90-1965 P 90-1973
P 90-1984 P 90-1985 P 91-0004 P 91-0043
P 91-0051 P 91-0074 P 91-0101 P 91-0102
P 91-0107 P 91-0108 P 91-0109 P 91-0110
P 91-0111 P 91-0112 P 91-0113 P 91-0118
P 91-0173 P 91-0174 P 91-0175 P 91-0176
P 91-0177 P 91-0178 P 91-0179 P 91-0180
P 91-0181 P 91-0182 P 91-0183 P 91-0184
P 91-0222 P 91-0228 P 91-0230 P 91-0231
P 91-0232 P 91-0233 P 91-0242 P 91-0243
P 91-0244 P 91-0245 P 91-0246 P 91-0247
P 91-0248 P 91-0252 P 91-0253 P 91-0288
P 91-0328 P 91-0337 P 91-0358 P 91-0363
P 91-0391 P 91-0442 P 91-0451 P 91-0464
P 91-0465 P 91-0466 P 91-0467 P 91-0468
P 91-0469 P 91-0470 P 91-0471 P 91-0472
P 91-0487 P 91-0490 P 91-0501 P 91-0503
P 91-0514 P 91-0521 P 91-0525 P 91-0527
P 91-0532 P 91-0541 P 91-0548 P 91-0572
P 91-0584 P 91-0600 P 91-0602 P 91-0619
P 91-0627 P 91-0659 P 91-0665 P 91-0666
P 91-0688 P 91-0689 P 91-0701 P 91-0732
P 91-0763 P 91-0774 P 91-0775 P 91-0809
P 91-0818 P 91-0826 P 91-0827 P 91-0831
P 91-0853 P 91-0899 P 91-0902 P 91-0903
P 91-0905 P 91-0912 P 91-0914 P 91-0915
P 91-0934 P 91-0935 P 91-0936 P 91-0937
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P 91-1000 P 91-1009 P 91-1010 P 91-1011
P 91-1012 P 91-1013 P 91-1014 P 91-1015
P 91-1016 P 91-1017 P 91-1018 P 91-1019
P 91-1020 P 91-1021 P 91-1022 P 91-1023
P 91-1024 P 91-1025 P 91-1026 P 91-1027
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P 91-1068 P 91-1069 P 91-1070 P 91-1071
P 91-1072 P 91-1073 P 91-1074 P 91-1075
P 91-1077 P 91-1086 P 91-1101 P 91-1102
P 91-1116 P 91-1117 P 91-1118 P 91-1122
P 91-1123 P 91-1124 P 91-1125 P 91-1126
P 91-1127 P 91-1128 P 91-1129 P 91-1131
P 91-1141 P 91-1143 P 91-1153 P 91-1154
P 91-1161 P 91-1162 P 91-1163 P 91-1164
P 91-1173 P 91-1190 P 91-1191 P 91-1206
P 91-1208 P 91-1209 P 91-1210 P 91-1229
P 91-1231 P 91-1232 P 91-1233 P 91-1234
P 91-1235 P 91-1239 P 91-1240 P 91-1243
P 91-1269 P 91-1270 P 91-1271 P 91-1272
P 91-1273 P 91-1274

III. 245 Premanufacture notices and exemption request for which the notice review period has ended during the month. (Expiration of the notice review period does not signify that the chemical has been added to the Inventory).

PMN No.

P 88-0468 P 88-1473 P 88-1807 P 88-1809
P 88-1811 P 90-0160 P 90-0237 P 90-0248
P 90-0249 P 90-1472 P 90-1473 P 90-2000
P 91-0123 P 91-0124 P 91-0186 P 91-0187
P 91-0188 P 91-0202 P 91-0568 P 91-0598
P 91-0667 P 91-0689 P 91-0700 P 91-0760
P 91-0778 P 91-0839 P 91-0840 P 91-0841

P 91-0842	P 91-0850	P 91-0851	P 91-0852	P 91-0947	P 91-0948	P 91-0949	P 91-0950	P 91-1035	P 91-1036	P 91-1037	P 91-1038
P 91-0862	P 91-0863	P 91-0864	P 91-0865	P 91-0951	P 91-0952	P 91-0953	P 91-0954	P 91-1039	P 91-1040	P 91-1041	P 91-1042
P 91-0866	P 91-0867	P 91-0868	P 91-0869	P 91-0955	P 91-0956	P 91-0957	P 91-0958	P 91-1043	P 91-1044	P 91-1045	P 91-1046
P 91-0870	P 91-0871	P 91-0872	P 91-0873	P 91-0959	P 91-0960	P 91-0961	P 91-0962	P 91-1047	P 91-1048	P 91-1049	P 91-1050
P 91-0874	P 91-0875	P 91-0876	P 91-0877	P 91-0963	P 91-0964	P 91-0965	P 91-0967	P 91-1051	P 91-1052	P 91-1053	P 91-1054
P 91-0878	P 91-0879	P 91-0880	P 91-0881	P 91-0969	P 91-0970	P 91-0971	P 91-0972	P 91-1055	P 91-1056	P 91-1057	P 91-1058
P 91-0882	P 91-0883	P 91-0884	P 91-0885	P 91-0973	P 91-0974	P 91-0975	P 91-0976	P 91-1059	P 91-1060	P 91-1061	P 91-1062
P 91-0886	P 91-0887	P 91-0888	P 91-0889	P 91-0977	P 91-0978	P 91-0979	P 91-0980	P 91-1063	P 91-1064	P 91-1065	P 91-1066
P 91-0890	P 91-0891	P 91-0892	P 91-0893	P 91-0982	P 91-0983	P 91-0984	P 91-0985	P 91-1067	P 91-1068	P 91-1069	P 91-1070
P 91-0894	P 91-0895	P 91-0896	P 91-0897	P 91-0986	P 91-0987	P 91-0988	P 91-0989	P 91-1071	P 91-1072	P 91-1073	P 91-1074
P 91-0898	P 91-0900	P 91-0901	P 91-0904	P 91-0990	P 91-0991	P 91-0992	P 91-0993	P 91-1075	P 91-1076	P 91-1078	P 91-1079
P 91-0906	P 91-0907	P 91-0908	P 91-0909	P 91-0994	P 91-0995	P 91-0996	P 91-0997	Y 91-0179	Y 91-0180	Y 91-0181	Y 91-0182
P 91-0910	P 91-0911	P 91-0913	P 91-0916	P 91-0998	P 91-0999	P 91-1001	P 91-1002	Y 91-0183	Y 91-0184	Y 91-0185	Y 91-0186
P 91-0917	P 91-0918	P 91-0919	P 91-0920	P 91-1003	P 91-1004	P 91-1005	P 91-1007	Y 91-0187	Y 91-0188	Y 91-0189	Y 91-0190
P 91-0921	P 91-0922	P 91-0923	P 91-0924	P 91-1008	P 91-1016	P 91-1017	P 91-1018	Y 91-0191	Y 91-0192	Y 91-0193	Y 91-0194
P 91-0925	P 91-0926	P 91-0927	P 91-0928	P 91-1019	P 91-1020	P 91-1021	P 91-1022	Y 91-0195	Y 91-0196	Y 91-0197	Y 91-0198
P 91-0929	P 91-0930	P 91-0931	P 91-0932	P 91-1023	P 91-1024	P 91-1025	P 91-1026	Y 91-0199			
P 91-0933	P 91-0934	P 91-0938	P 91-0942	P 91-1027	P 91-1028	P 91-1029	P 91-1030				
P 91-0943	P 91-0944	P 91-0945	P 91-0946	P 91-1031	P 91-1032	P 91-1033	P 91-1034				

IV. 68 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Identity/Generic Name	Date of Commencement
P 80-0072	G Salt of (ethenediyl)bis hydroxyphenylazo benzenesulfonic acid	August 20, 1980.
P 80-0090	G Bimethyl substituted heteromonocyclic salt	November 24, 1980.
P 84-1079	G Alkylated diphenyl oxide	October 16, 1985.
P 85-0838	(+)4-(2-methylbutyl)biphenyl 4'-carboxylate	July 23, 1991.
P 86-0172	G Azosubstituted aminonaphthol salt	May 8, 1991.
P 86-1614	G Polyalkylene glycol ester	January 18, 1989.
P 86-1619	Hexadecane dimethylethanolamine dimethylethanolamine: h c1 hexadecane,1,2-epoxy-	August 2, 1991.
P 87-0502	G Dialkenylamide	January 26, 1988.
P 87-1653	G Azoxy bis(substituted phenyl)azo)bis(substituted naphthalenesulfonic acid, salt	July 12, 1991.
P 88-0030	G Polyurethane	November 9, 1990.
P 88-0217	Tetrachloroethylene (solvent)	May 26, 1988.
P 88-0471	G Fluorinated alcohol	July 10, 1991.
P 88-0836	G 2-Propanamine, *N*-hydroxy-	July 16, 1991.
P 88-0896	Polyisocyanate polymer	July 15, 1991.
P 88-1753	G Bis(substituted)carbomonocyclic azo)-carbomonocyclicol	February 14, 1990.
P 88-2345	G Substituted sulfonated amino hydroxy naphthalene	August 2, 1991.
P 88-2349	G Trialkylene glycol ether	July 10, 1991.
P 89-0396	G Sulfur bridged substituted phenols	October 23, 1990.
P 89-0631	G Poly(bisphenol *A* carbonate)	August 25, 1989.
P 89-0632	4-Piperidinamine, *N*-butyl-2,2,6,6-tetramethyl; 1,3-propanediamine,*N,N'*-1,2-ethandiyl bis-; 1,3,5-triazine,2,4,6-trichloro-	June 23, 1991.
P 89-0893	G Tolutriazole compound	May 30, 1991.
P 89-1135	Tricyclo(5.2.1.02,6)decane-3,8(or 3,9 or 4,8)-diyldimethyl diacrylate	June 27, 1991.
P 90-0528	G Reaction product of polyalkenyl acid anhydride with amine	July 3, 1991.
P 90-0639	G Acrylic copolymer, sodium salt	October 25, 1990.
P 90-0679	G Salts of acrylic-aromatic polymers	November 2, 1990.
P 90-1308	G Dimetridazole	June 21, 1991.
P 90-1755	G Calcium sodium polyacrylate	July 24, 1991.
P 90-1823	2,4-toluene diisocyanate; hydroxy ethyl acrylate; furane, tetrahydro 3-methyl polymer with tetrahydrofurane	June 27, 1991.
P 90-1824	2,4-toluene diisocyanate; hydroxy ethyl acrylate; furane, tetrahydro 3-methyl polymer with tetrahydrofurane	June 27, 1991.
P 90-1825	2,4-toluene diisocyanate; hydroxy ethyl acrylate; furane, tetrahydro 3-methyl polymer with tetrahydrofurane	June 27, 1991.
P 90-1868	G Complex phenyl aliphatic ester	June 13, 1991.
P 91-0115	G Benzyl ester of an aliphatic substituted butanedioic acid	July 22, 1991.
P 91-0118	G Oligomeric silicic acid ester compound with a hydroxyalkylamine	June 14, 1991.
P 91-0156	G Cupate (3.),(2-(((substanced)azo)phenylmethyl)azo-4-sulfobenzoato(5-)),salt	June 25, 1991.
P 91-0310	Maleic anhydride; butoxyethoxyethanol; 1,5-pentanediol	July 24, 1991.
P 91-0312	G Acrylic polymer	July 24, 1991.
P 91-0394	G Substituted perfluoroalkenyl ammonium salt	May 21, 1991.
P 91-0484	G Magnesium oxide substituted oxide carbonate hydrate	June 21, 1991.
P 91-0489	G Epoxy resin ester polymerized with acrylic acid/acrylates	June 27, 1991.
P 91-0556	G Oil and acrylic modified alkydresin, ammonium salt	July 13, 1991.
P 91-0563	1,3 diisocyanato methylbenzene;1,5 diisocyanatomethyl benzene;4,4' diphenyl methane diisocyanatedipropylene glycol; polypropylene glycol; hexanedioic acid, polymer with 2,2-dimethyl-1,3-propanediol.	July 6, 1991.
P 91-0564	Pentaerythritol tetraisostearate	July 11, 1991.
P 91-0595	G Styrene acrylate ionomer resin	June 27, 1991.
P 91-0623	G Amino ester	June 30, 1991.
P 91-0632	Ethoxylated *N*-hexylamine compounds with boric acid and tall oil fatty acids	June 23, 1991.
P 91-0639	G Aryl substituted thiuram	July 20, 1991.
P 91-0640	G Neutralized condensation polymer of aromatic sulfonic acid and urea triazine-formaldehyde resin	June 25, 1991.
P 91-0657	G Substituted alkylbenzene	July 15, 1991.
P 91-0658	G Organopolysiloxane	June 27, 1991
P 91-0661	G Substituted alkenylheterocyclic benzoic acid	July 23, 1991.
P 91-0672	G Organopolysiloxane	July 29, 1991.
P 91-0680	G Polyurethane	June 20, 1991.

IV. 68 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture—Continued

PMN No.	Identity/Generic Name	Date of Commencement
P 91-0686	G Vinyl heteromonocycle polymer with mixed alkenes	June 24, 1991.
P 91-0733	G Copolymer of acrylic and methacrylic esters	July 14, 1991.
P 91-0734	G Eopolymer of methacrylic acid modified polyacrylate	July 14, 1991.
P 91-0737	1,2-Bis(diphenylphosphino)ethane	July 22, 1991.
P 91-0745	G Modified acrylic resin	July 19, 1991.
P 91-0759	G Functional vinyl acetate polymer	July 11, 1991.
P 91-0773	G Fatty acids, polymer with polyols and aromatic carboxylic acids	July 10, 1991.
P 91-0785	G Organosiloxane	July 29, 1991.
P 91-0786	G Organosiloxane	July 29, 1991.
P 91-0791	G Modified aliphatic phosphite esters	July 17, 1991.
P 91-0810	G Polyester isocyanate prepolymer	July 26, 1991.
Y 87-0036	Urethane polymer of linseed oil 2-ethyl-2-(hydroxymethyl)-1-3-propanediol, and benzene,1,3-diisocyanato methyl-	December 9, 1986.
Y 88-0262	G Styrene acrylic copolymer	July 21, 1991.
Y 91-0135	G Amine reacted polymer of aliphatic isocyanates with polyester polyol	July 11, 1991.
Y 91-0148	G Acrylic-modified soya alkyd polymer	June 24, 1991.
Y 91-0149	G Styrene-acrylic copolymer	June 17, 1991.

V. 36 Premanufacture notices for which the Period has been suspended.

PMN No.

P 91-0598 P 91-0700 P 91-0853 P 91-0854
P 91-0855 P 91-0856 P 91-0857 P 91-0858
P 91-0859 P 91-0860 P 91-0861 P 91-0899
P 91-0902 P 91-0903 P 91-0905 P 91-0912
P 91-0914 P 91-0915 P 91-0935 P 91-0936
P 91-0939 P 91-0940 P 91-0941 P 91-0966
P 91-0968 P 91-1000 P 91-1009 P 91-1010
P 91-1011 P 91-1012 P 91-1013 P 91-1014
P 91-1015 P 91-1077 P 91-1236 P 91-1244

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BILLING CODE 6560-50-F

federal register

Thursday
October 10, 1991

Part V

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 107 and 171

Hazardous Materials Transportation Registration and Fee Assessment Program; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107 and 171

[Docket No. HM-208, Notice No. 91-4]

RIN 2137-AB43

Hazardous Materials Transportation Registration and Fee Assessment Program

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: RSPA proposes to establish a national registration program for certain shippers and carriers of hazardous materials and certain hazardous materials package manufacturers. Each shipper, carrier or package manufacturer, whether foreign or domestic, in intrastate or interstate commerce, which engages in an activity subject to the registration program would be required to annually file a registration statement with RSPA. RSPA also proposes to assess and collect from all persons who are required to be registered an annual fee of not less than $250 nor more than $5,000 for purposes of funding a nationwide emergency response training and planning grant program. Persons subject to the registration program also would be assessed an additional fee to cover the cost to DOT of processing each registration statement and administering the program.

RSPA proposes an initial deadline of May 31, 1992, for filing the registration statement and the payment of registration and processing fees. After June 30, 1992, no person required to file a registration statement would be permitted to transport or cause to be transported or shipped hazardous materials or manufacture a package for use in hazardous materials transportation, unless such person has on file a registration statement obtained in accordance with the requirements and procedures proposed herein.

The intended effect of this proposed regulation would be the establishment of a national registration program and the collection of annual fees to fund the national emergency response training and planning grant program. RSPA invites interested persons to comment on the proposed policies and procedures to implement the registration program.

DATES: *Comments.* Comments must be received by December 9, 1991.

Public Hearings. Public hearings will be held on (1) October 21, 1991, from 9:30 a.m. to 5 p.m. in Burlingame, California; and on (2) October 31, 1991, from 9:30 a.m. to 5 p.m. in Des Plaines, Illinois. Hearings may close earlier than 5 p.m. upon presentation of oral comments from all persons desiring to comment.

ADDRESSES: *Comments.* Address comments to Dockets Unit (DHM-30), Hazardous Materials Safety, RSPA, U.S. Department of Transportation, Washington, DC 20590-0001. Comments should identify the docket and notice number and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. The Dockets Unit is located in room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590-0001. Office hours are 8:30 a.m. to 5 p.m., Monday through Friday, except on public holidays when the office is closed. Copies of the "Hazardous Materials Transportation Uniform Safety Act of 1990" (HMTUSA), Public Law 101-615, may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9371, (202) 275-2091.

Public Hearings. The public hearings will be held in the following locations: (1) October 21, 1991, 9:30 a.m. to 5 p.m., Crown Sterling Suites, 150 Anza Blvd., Burlingame, CA 94010 (415) 342-4600; (2) October 31, 1991, 9:30 a.m. to 5 p.m., FAA Regional Office Building, room 166/170, 2300 E. Devon Avenue, Des Plaines, IL 60018.

FOR FURTHER INFORMATION CONTACT: Joseph S. Nalevanko, Office of Hazardous Materials Planning and Analysis, (202) 366-4109, or Beth Romo, Office of Hazardous Materials Standards, (202) 366-4488, Hazardous Materials Safety, 400 Seventh Street SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION: On November 16, 1990, the President signed the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), Public Law 101-615, which amended the Hazardous Materials Transportation Act (HMTA), 49 app. U.S.C. 1801 *et seq.* The revised section 106 of the HMTA, in part, requires certain carriers and shippers engaged in the transportation of hazardous materials to register with the Secretary of Transportation. Because the Secretary's responsibility in this matter has been delegated to RSPA, all references in this Notice are to RSPA. A description of the major HMTA provisions with respect to the establishment of a national registration program follows.

I. Major Registration Provisions of the HMTA

A. Manadatory Filings of Registration Statements

Section 106(c)(1) of the HMTA requires that each person who carries out one or more of the following activities must file a registration statement with RSPA:

(1) Transports or causes to be transported or shipped in commerce highway-route controlled quantities of radioactive materials;

(2) Transports or causes to be transported or shipped in commerce more than 25 kilograms (55 pounds) of Division 1.1, 1.2, or 1.3 (Class A or Class B explosives) materials in a motor vehicle, rail car, or transport container;

(3) Transports or causes to be transported or shipped in commerce more than one liter (1.1 quart) per package of a hazardous material which has been designated by RSPA as extremely toxic by inhalation;

(4) Transports or causes to be transported or shipped in commerce a hazardous material in a bulk package, container, or tank if the package, container, or tank has a capacity equal to or greater than 13,248 liters (3,500 gallons) or more than 13.24 cubic meters (468 cubic feet); or

(5) Transports or causes to be transported or shipped in commerce a shipment of 2170 kilograms (5,000 pounds) or more of a class of a hazardous material for which placarding of a vehicle, rail car, or freight container is required.

Section 103 of the HMTA, the term "person" includes an individual, firm, copartnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof, or government, Indian tribe, or agency or instrumentality of any government or Indian tribe when it offers hazardous materials for transportation in commerce or transports hazardous materials in furtherance of a commercial enterprise. However, sections 106(c)(14) and (c)(15) of the HMTA exempt from the registration requirement agencies of the Federal Government, agencies of States, agencies of political subdivisions of States, employees of such agencies with respect to their official duties, and employees of a "hazmat employer."

B. Discretionary Authority

Under section 106(c)(3) of the HMTA, RSPA has discretionary authority to

require other persons to register. These include persons who transport or cause to be transported or shipped in commerce hazardous materials and who are not under the statutory obligation to register as described above, and persons who manufacture, fabricate, mark, maintain, recondition, repair or test packages or containers which are represented, marked, certified, or sold by such persons for use in the transportation in commerce of hazardous materials designated by RSPA.

C. Filing Deadlines

Under section 106(c)(5) of the HMTA, initial registration statements must be filed with RSPA by March 31, 1992. However, this section also allows RSPA to extend that deadline to September 30, 1992. Registration statements must be renewed periodically in accordance with regulations issued by RSPA, but no less frequently than every five years and no more frequently than annually.

D. Contents of Registration Statement

Under section 106(c)(7), the registration statement, at a minimum, must include the following information:

(1) The registrant's name and principal place of business;

(2) A description of each activity the registrant carries out for which filing of a registration statement is required; and

(3) The State or States in which such person carries out each such activity.

Under section 106(c)(10), this information, and any other information not otherwise protected by law from public disclosure, shall be made available by RSPA under the FOIA procedures for inspection by any person for a reasonable fee, to be established by RSPA.

Under section 106(c)(8), a person who carries out more than one activity for which filing of a registration statement is required needs to file only one registration statement in order to be properly registered with the Department.

E. Fees To Be Assessed For Funding National Emergency Response Training and Planning Grant Program

Under section 117A(h)(3) of the HMTA, the amount of the annual fee which may be collected from a person required to register with RSPA may not be less than $250 and may not exceed $5,000. Within the range of $250 to $5,000, section 117A(h)(2) of the HMTA allows RSPA to base the amount of the registration fee on one or more of the following factors:

(1) The gross revenues from the transportation of hazardous materials;

(2) The types of hazardous materials transported or caused to be transported;

(3) The quantities of hazardous materials transported or caused to be transported;

(4) The number of shipments of hazardous materials;

(5) The number of activities which a person carries out for which a filing of a registration statement is required;

(6) The threat to property, persons, and the environment from an accident or incident involving the hazardous materials transported or caused to be transported;

(7) The percentage of gross revenues which are derived from the transport of hazardous materials;

(8) The amount of funds which are made available to carry out the emergency response planning and training grant program; and

(9) Such other factors as RSPA considers appropriate.

F. Fees to Be Assessed For Processing the Registration Statement

Under section 106(c)(11), RSPA may establish, assess, and collect fees from persons required to file registration statements to cover the costs of the Department of Transportation in processing those registration statements.

G. Proof of Registration and Payment of Fees

Under section 106(c)(12), RSPA may issue regulations requiring persons who are subject to the registration program to maintain proof of the filing of their registration statements and the payment of fees assessed under the registration program.

H. Relationship to Permitting Requirement

Section 106(d) of the HMTA also provides that a motor carrier may transport (or cause to be transported) by motor vehicle in commerce certain hazardous materials only if the motor carrier holds a safety permit issued by the Secretary. The safety permit requirement applies to the transportation by a motor carrier of Division 1.1, 1.2, or 1.3 (Class A or B explosives) materials, liquefied natural gas, materials designated by the Secretary as extremely toxic by inhalation, or highway route-controlled quantities of radioactive materials. Therefore, some of the motor carriers who would be required to register with RSPA, under the rule being proposed today, may also be required to obtain a safety permit. The Federal Highway Administration (FHWA) has been delegated the authority to implement the safety permitting program.

II. Proposed Registration Procedures and Policies

RSPA is proposing procedures and policies for establishing a statutorily-required registration program—together with two major alternatives designed to implement the fee collection process in an efficient, effective and equitable manner.

In order to streamline and simplify the registration process as much as possible, and to encourage public participation in the development of effective policies and procedures, comments are requested on the following major features of the proposed registration requirements and fee collection procedures.

A. Persons Initially To Be Included in the Registration Program

The proposed registration and fee collection program would include those persons under a statutory obligation to file a registration statement. In addition, under RSPA's explicit discretionary authority under section 106(c)(3) of the HMTA, the program would include all persons who are engaged in the manufacturing, fabricating, marking, retesting, or reconditioning of United Nations (UN) or Department of Transportation (DOT) specification or DOT exemption packages, except small business concerns, as described in 13 CFR 121.601, that manufacture, fabricate, or mark only boxes or bags, or both.

Persons under statutory obligation to file registration statements include those persons whose hazardous materials transportation activities have been determined by Congress to present a heightened risk to the public and are of greater concern to emergency response personnel, either because of the volume or the nature of the hazardous materials being transported. These activities apply to all modes of transportation (i.e., highway, air, water, and rail) and include the transportation of highway route-controlled quantities of radioactive materials, explosives, hazardous materials extremely toxic by inhalation, certain bulk shipments of hazardous materials (e.g., shipments involving cargo tank trucks or rail tank cars having a capacity equal to or greater than 13,248 liters (3,500 gallons)), and shipments of 2170 kg (5,000 pounds) or more of a class of hazardous material for which placarding of a vehicle, rail car, or freight container is required.

However, 28 percent of all hazardous materials incidents reported to RSPA between 1986 and 1990 were attributable to package failures, and these incidents

have contributed to the workload of emergency response personnel. Thus, RSPA proposes to require the registration of all persons who are engaged in the manufacturing, fabricating, marking, retesting, or reconditioning of UN or DOT specification or DOT exemption packages, except for small business concerns, as described in 13 CFR 121.601, that manufacture, fabricate, or mark only boxes or bags, or both.

In accordance with section 105(a)(1) of the HMTA, RSPA proposes to require the registration of all the above-described entities when engaged in intrastate, interstate, or foreign commerce. Comments are requested on possible broadening of the registration program to include additional persons, possible narrowing of the program to exclude some of the above-described persons, and the criteria which should be used to define the persons who should be required to register.

B. Foreign Shippers, Carriers, and Governments

Foreign carriers and shippers are among the "persons" who may transport or cause to be transported or shipped in commerce hazardous materials because commerce means "trade, traffic, commerce, or transportation within the jurisdiction of the United States between a place in a State and any place outside of such State, or which affects trade, traffic, commerce, or transportation between a State and any place outside of such State" (see HMTA, Sec. 103, Definitions). It is important to note that the term "person" often includes a "government" (see HMTA, Sec. 103, Definitions) and that section 106(c)(15) exempts from registration only Federal, State and local governments in the United States. To the extent that such foreign persons perform one or more of the activities described under section 106(c)(1) of the HMTA in commerce in the United States, they are under a statutory obligation to file a registration statement with RSPA and to pay an annual fee. Comments are requested on the extent and manner in which foreign shippers, carriers, packaging manufacturers, and governments should be required to comply with the registration requirements of the HMTA in the most efficient and least burdensome manner possible.

RSPA is proposing to require that a person who is not a resident of the United States and who is subject to the registration requirements of the HMTA must designate an agent for service of process who is a resident of the United States. The designated U.S. agent would then be required to file the registration statement and pay the fees for and on behalf of the non-U.S. resident.

The provisions of this proposed rule could affect access to U.S. markets by foreign carriers, shippers and other entities. It should be noted that the intention of this proposal is to require the registration and payment of appropriate fees by affected entities without regard to their location. It is anticipated that the cost to foreign entities in comparison to U.S. domestic entities would relate primarily to the designation of a resident agent and would not result in a competitive advantage for U.S. domestic entities. Comments on the possible international trade impacts of the proposed requirements are welcomed.

Although the HMTA requires registration and collection of fees from certain foreign shippers and carriers of hazardous materials, RSPA is concerned about the potential effect on, or possible reciprocal treatment of, U.S. businesses outside the United States. Comments are invited on how RSPA should deal with this potential problem.

C. Relationship Between "Parent Company" and Subsidiary Companies

Section 106(c)(8) of the HMTA states that a person who carries out more than one activity for which filing of a registration statement is required needs to file only one registration statement with respect to these activities. Because corporations are separate "persons," it is proposed that U.S. companies under the majority stock ownership of another company, or wholly-owned or controlled subsidiaries of another company, would be required to file registration statements with, and to pay an annual fee to, RSPA. Thus, where there is a group of related companies all engaged in offering or transporting in commerce, or manufacturing packages for the transportation of hazardous materials, each corporation in this group would be required to register separately. Comments are requested on this approach to the treatment of subsidiary companies.

D. Fee Schedule

As previously noted, within the range of $250 to $5,000, section 117A(h)(2) of the HMTA gives RSPA the discretion to base the amount of the annual fee on a wide variety of factors. In developing these proposals, RSPA has considered numerous factors for assessing a fair and equitable registration fee. These factors are those enumerated in section 117A(h) of the HMTA and include, for example, such considerations as a person's annual gross revenue, or the percentage of gross revenue, derived from the transportation of hazardous materials; and annual quantity and types of the hazardous materials transported or caused to be transported; and the annual number of shipments of hazardous materials.

RSPA believes that basing the registration fee on one or more of these factors would entail an enormous recordkeeping and accounting burden both on the industry and on the Government. For example, basing the annual registration fee on a person's annual gross revenue, or on the percentage of gross revenue, derived from the transportation of hazardous materials could require significant changes in the way paperwork tracking and accounting procedures are handled by a company. Further, this information would be subject to verification by Federal, State and local enforcement personnel in order to ensure that a person's annual fee was in fact appropriate and commensurate with the annual gross revenue, or with the percentage of gross revenue, derived from the company's transportation of hazardous materials.

RSPA also considered basing the amount of the fee on the risk to property, persons, and the environment from an accident or incident involving the hazardous materials transported or caused to be transported. RSPA believes that this approach to the assessment of registration fees would result in an even more complicated and administratively burdensome system than one based on the annual gross revenue derived from a company's transportation of hazardous materials. This is because the risk or the threat to property, persons, and the environment from an accident or incident is in part a function of the quantity and type of hazardous materials being transported and the annual number of shipments that are made. Fairly detailed information on these matters would have to be provided to RSPA before the threat or risk from a person's activities could be determined.

The different "types of hazardous materials transported or caused to be transported"—e.g., highway route-controlled quantities of radioactive materials, hazardous materials extremely toxic by inhalation—do not in themselves provide an adequate basis on which to determine the amount of the registration fee. Additional factors would have to be introduced to more fully differentiate between the various types of activity. These additional factors might include: The risk associated with various activities; or the

quantities and number of shipments involved with such activities. But, as discussed above, basing the registration fee on these additional factors would entail significant recordkeeping and accounting burdens on both industry and government.

Given the fairly narrow, permissible range of the fee schedule (i.e., a minimum fee of $250 and a maximum fee of $5,000 to be assessed against each person subject to the registration program), RSPA believes that the fee schedule should be as simple and as straightforward as possible. It should be easily understood by the regulated parties. It should be easily administered and enforceable. Although the registration statement and fee schedule are excepted from the Paperwork Reduction Act by 49 App. U.S.C. 1805(c)(13), that statement and schedule should minimize paperwork burdens and any unintended competitive impacts or undersirable market entry constraints on domestic and international commerce. The fee schedule also should balance equity considerations against the regulatory virtue of simplicity and the need to be as inclusive as possible. For example, imposing different fee schedules for shippers and carriers is administratively more complex and burdensome than imposing one fee schedule for both shippers and carriers. However, the advantages of a uniform fee schedule need to be balanced against the equity consideration that small or comparatively small businesses should be assessed lower fees than large hazardous materials business operations. Finally, to the maximum extent possible, the fee to be assessed should not be subject to wide fluctuations from one registration period to the next.

A principal concern in trying to strike a balance between equity and efficiency considerations, and in trying to make the registration process as clear and as administratively simple as possible, is to link the registration fee to information which is readily available to potential registrants and can be verified by inspection and enforcement personnel, and which bears some relationship to the scope and magnitude of a person's involvement in hazardous materials transportation activities.

On the basis of these considerations, RSPA is proposing two major alternative fee schedules. Alternative (1) provides for a graduated fee schedule under which all persons (except foreign entities) required to file a registration statement with RSPA would have the choice of deciding whether to file the registration statement either (Option A) on the basis of the person's annual net income; or (Option B) on the basis of the number of activities which the person carries out and for which filing a registration statement is required. Alternative (2) provides for a flat fee schedule under which each person subject to the registration program would pay the same fee.

Alternative 1. Option A. Under Option A, the fee schedule (except for foreign shippers, carriers, and packaging manufacturers) would be based on a person's annual net income. Although the amounts could increase or decrease in a final regulation, the fee schedule (including the processing fee of $50) would be similar to the following:

Person's annual net income	Required annual registration and processing fee
Less than $500,000	$300
$500,000—$1,000,000	550
$1,000,001—$2,500,000	1,050
$2,500,001—$5,000,000	2,550
$5,000,001 or more	5,050

Thus, if the annual net income of a persons was $500,000 or more, but less than $1,000,001 and that person is subject to the registration requirement, that person would be required to pay a fee of $500 for the registration year in question and a $50 processing fee.

It should be noted that even if, for example, the annual net income is negative, that person would still be required to file a registration statement with RSPA. For newly-formed companies, the annual registration fee would be based on the number of activities carried out. All foreign persons who are required to be registered with RSPA would be required to pay an annual fee based on the number of activities they undertake that are subject to the registration requirement. The many problems associated with determining equivalent annual net income or even gross revenue concepts for foreign shippers, carriers, and package manufacturers subject to the registration requirement would seem to preclude assessing a registration fee based on the net income or revenue of these entities.

The major difference between this option and Option B, discussed below, is that under this option a person would have blanket authority to engage in all of the activities covered by the registration requirement. A person who registered and paid the appropriate income-based fee under this option would be authorized to transport or ship highway route-controlled quantities of radioactive materials, materials extremely toxic by inhalation, 25 kg (55 pounds) of Class 1 (Class A or Class B explosives) materials, or other authorized activity. The need to amend the registration statement would be limited to instances where certain basic information concerning the registrant had changed during the registration year. For example, except for a change in the registrant's name or principal place of business, all amendments to the registration statement would be made annually when the registration statement would be renewed.

Demonstrative regulatory language for Option A is reflected in § 107.612(a)(1) of Alternative 1 in the proposed regulatory language.

Alternative 1, Option B. Under Option B, a person's annual registration fee would be determined by the number of hazardous materials transportation activities that the registrant intends to engage in, or actually engages in, during the registration period. As discussed in this proposal, there would be six activities which would require the filing of a registration statement with RSPA. If the number of these activities were the basis for the registration fee, a person engaging in one of the activities (e.g., transporting or causing to be transported or shipped in commerce highway-route controlled quantities of radioactive materials) could be assessed $250—the minimum amount allowable under the HMTA. A person engaging in two activities (e.g., transporting more than 25 kg (55 pounds) of a Class 1 (Class A or Class B explosives) material and transporting a material extremely toxic by inhalation) would be assessed an additional amount, which may or may not be $250; a person engaging in all six activities subject to the registration program would be assessed the highest fee, a fee not to exceed $5,000 per registration year. Under this option, although the amounts could increase or decrease in the final rule, the fee schedule (which includes the processing fee of $50) would be similar to the following:

Number of activities engaged in	Required annual registration and processing fee
One	$300
Two	550
Three	1,050
Four	2,050
Five	4,050
Six	5,050

A Certificate of Registration issued by RSPA would authorize the registrant to engage in only those specific activities for which application for registration

was initially made. However, if at any time during the registration year a person intended to engage in one or more of the activities not covered by the initial registration statement, the person would be required to apply to RSPA to amend the initial registration statement. The additional fee associated with an amendment to an initial registration statement would be the net difference between the initial fee paid to RSPA and the fee associated with the new number of specific activities for which a person wished to be registered with RSPA, plus a registration statement processing charge.

For example, if a person who initially registered with RSPA to engage in the activity of transporting one-liter (1.1 quart) packages of materials extremely toxic by inhalation wanted to register with RSPA, at some point later in the registration year, for the additional activity of transporting a bulk package (capacity of 3,500 or more gallons or more than 468 cubic feet) of hazardous materials, that person would be required to amend the original registration statement and pay a fee of $250 (the net difference between the original registration fee of $250 for one activity and the registration fee of $500 for two activities), plus the cost (e.g., $50) to RSPA of processing the amendment. It should be noted that RSPA believes that many persons subject to the registration program would be required to initially register for at least two activities. For example, persons transporting a hazardous material in a bulk package having a capacity of 3,500 or more gallons or more than 468 cubic feet will almost certainly be engaged in transporting a shipment of 5,000 pounds or more of a class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required. Thus, Option B could place an economic burden on any small business which engages, even in a very limited and infrequent manner, in more than one activity subject to the registration requirement. Demonstrative regulatory language for Option B is reflected in § 107.612(a)(2) of Alternative 1 in the proposed regulatory language.

To summarize, under Alternative (1), RSPA proposes to leave to each registrant the decision whether to be registered with RSPA either under Option A or under Option B discussed above. Under this alternative, all persons (except foreign entities and newly-formed companies) required to file a registration statement with RSPA would have the choice of filing the registration statement either on the basis of the person's annual net income, or on the basis of the number of activities which the person carries out and for which filing of a registration statement is required. If the person chose to pay the fee based on the number of activities, the Certificate of Registration issued by RSPA would specifically authorize only those activities for which a fee was paid. If the person chose to pay based on the annual net income, the Certificate would specifically authorize all activities for which registration is required.

Although this alternative is somewhat more complicated and administratively more burdensome, RSPA is proposing it in the interest of striking a balance between equity considerations and minimizing the impact on small businesses. Again, for the reasons noted above, foreign entities and newly formed companies would be required to file the registration statement and to pay an annual fee based on the number of activities engaged in. Appendix 1 to this Notice demonstrates the type of registration statement which might be used to implement Alternative 1.

Alternative 2. As its second major alternative, RSPA proposes assessing a flat fee on all persons subject to the registration program, regardless of the number of activities engaged in by the person, the number of shipments that are involved with these activities, the nature and type of hazardous materials transported or shipped, the annual net income or gross revenue derived from such activities, or the total annual net income or gross revenue.

RSPA believes that this approach would be the easiest for it to administer and the easiest for registrants to follow since they would not need to calculate their annual fees. All registrants, regardless of size, income, or hazardous materials activities, would pay the same registration fee. That fee would be greater than $250 but less than $5,000—and probably, but not certainly, less than $1,000. Comments are specifically invited on the equity considerations involved with imposing a flat fee on all registrants. Appendix 2 to this Notice demonstrates the type of registration statement which might be used to implement Alternative 2.

RSPA also welcomes comments on any other factors that might be considered as the basis for the assessment of registration fees. RSPA is proposing a limited exception for certain small businesses and is particularly interested in receiving comments addressing potential impacts of this registration program on small entities and what percentage of a person's business income or net worth would be affected by the proposed registration and fee assessment program.

E. Fee for Reimbursement of Processing Costs

In addition to the registration fee, and under the authority of section 106(c)(11) of the HMTA, RSPA proposes to recover the costs to the Department of processing the registration statements by charging each registrant a flat fee of $50. These costs include the costs attributable to reviewing a registrant's statement, maintaining the information submitted in retrievable form, issuing registration certificates, verifying the continuing validity of the information already submitted, following up demands for payment, postage, and other processing costs. RSPA estimates that these costs will average approximately $50 per registration statement. RSPA is proposing to require payment of this amount in the same manner as the registration fee.

Although the proposed regulatory language in § 107.612 accompanying this Notice contains a proposed $50 processing fee, RSPA may impose a processing fee of any reasonable amount.

F. Registration Year

RSPA proposes that the filing of a registration statement and the payment of a registration fee be an annual requirement. The registration year would begin June 1 of one year and end May 31 of the following year. RSPA proposes May 31, 1992, for the effective date for the required filing of the initial registration statement and the required payment of the associated registration fee. This means that any person who at any time from June 1, 1992, through May 31, 1993, engages in one or more of the activities subject to the registration program would be required to file a registration statement with RSPA and to pay the appropriate registration fee. RSPA has requested funding to implement this program in accordance with a timetable proposed in this rulemaking.

Persons who expect to engage in any of the activities subject to the registration requirement would be encouraged to register as soon as possible after a final regulation is published, since the time involved in obtaining a certificate validating the registration statement possibly would entail more than several days. RSPA realizes that many of the activities subject to the registration requirement may be conducted on an infrequent basis throughout the year, or involve delivery schedules that may have been

contracted for months in advance. However, under this proposed rule, persons who violate that requirement after June 30, 1992, would be subject to civil and criminal penalties, and their shipments could be frustrated or delayed—at least temporarily—by enforcement personnel. Similarly, persons who submitted incomplete or inaccurate registration statements would be subject to civil and/or criminal penalties.

As previously noted, under section 106(c)(5) of the HMTA, persons subject to the registration requirement must periodically renew their registration statement in accordance with regulations issued by RSPA, but not less frequently than every five years and no more frequently than annually. RSPA proposes that the registration statement be filed with RSPA annually.

RSPA believes that the registration statement cannot be filed or renewed less frequently than once every year without severely impairing the efficiency and effectiveness of the registration program, and the integrity of the information collected under this program. The HMTA requires that an annual registration fee be paid by all persons subject to the registration program. After a person has initially filed a registration statement with RSPA, it is altogether impractical to assume that the person can continue to be effectively registered with RSPA by simply sending in a check or a money order every year for the next two or three years—unaccompanied by some other document that identifies the person and the purpose of the check. The annual registration fee which is to be paid either by money order, check or credit card would be correlated and compared with the information contained in the registration statement in terms either of the number of activities the person is engaged in, or the person's annual net income. Further, there is still a need for a document other than, and in addition to, a check, money order, or credit card receipt even in the case of everyone being assessed a fixed fee. The registration statement satisfies this need better than any other type of document. In addition, the registration statement provides a basis for a person to annually update the information on the States within which it is carrying out activities subject to the registration program. The time and the difficulty involved in a person's knowing the names of the States within which it carries out an activity subject to the registration program is not likely to be great.

G. Collection Procedures/Method of Payment

RSPA proposes that persons subject to the registration requirement use a "lock box" system both for purposes of filing the registration statements and paying registration and processing fees. The "lock box" is a post office box which a bank uses to collect mail frequently and transmit funds expeditiously to the U.S. Treasury. The U.S. Treasury Department has established a network of seven commercial banks in nine cities to provide lockbox services to Federal agencies. Persons subject to the registration program would mail their registration statements and their payments in full to a specific post office box on or before May 31 of each year. Payment would be required in U.S. dollars and must be by certified check, cashier's check, money order, or by VISA or MasterCard credit card for the amount of the registration fee and the cost to DOT of processing the registration statement, payable to the "U.S. Department of Transportation" and identified as payment for the hazardous materials transportation registration fee. All monies received would be transmitted to a special account at a U.S. Treasury "lock box" bank. RSPA, the U.S. Treasury Department, or an agent or contractor of either or both, would review each registration statement and method and amount of payment and either notify the remitter if any irregularity is discovered, or send the potential registrant a 'Certificate of Registration' confirming that the person is properly registered with RSPA.

Payments not received by the due date may be subject to allowable interest, penalty, and administrative charges under the Federal Claims Collection Act (31 U.S.C. 3717). Follow-up demands for payment and other actions intended to assure timely collection, including referral to local collection agencies or court action, would be conducted in accordance with the Federal Claims Collection Standards (4 CFR chapter 9) and Departmental procedures.

H. Adjustments

Section 117A(h)(3)(B) of the HMTA directs RSPA to adjust the amount of fees collected to reflect any unspent balances in the account established to fund the emergency response training and grant program. However, section 117A(h)(3)(B) also provides that nothing in section 117A(h) is to be construed as requiring RSPA to refund any fees collected. In view of the fact that the annual funding limit of the emergency response training and grant program is over $17 million, it is possible—at least in the initial years of the program—that the grant program may be under- or over-funded. This may necessitate some future regulatory changes in the timing and amount of the fee.

RSPA does not have an accurate picture of the number of persons who would be subject to the registration program, particularly with respect to the number of persons subject to the mandatory filing of registration statements. Comments and supporting documentation on the universe of persons involved in the transportation and shipment of hazardous materials, as well as the manufacture, etc. of UN or DOT packaging, that might be subject to the registration requirement would be useful, particularly in establishing the initial amount of fee in the final regulation on registration.

I. Proof of Registration and Payment of Fees: Compliance and Enforcement

Section 106(c)(4) of the HMTA states that no person subject to the registration requirement may engage in any activity for which registration is required, unless that person has on file a registration statement.

Under RSPA's proposal, proof of registration and annual payment of the appropriate registration fee would entail the following requirements:

First, in order to maintain up-to-date records of the population of registrants, persons subject to the registration program would be required to file an annual registration statement with RSPA.

Second, a copy of the registration statement filed with RSPA; a copy of the certified or cashier's check, money order, or a copy of the credit card billing statement showing payment for the person's registration and processing fee; and the 'Certificate of Registration' issued by RSPA to the registrant would be required to be maintained at the person's principal place of business for a period of three years from date of issue.

Third, a copy of the 'Certificate of Registration' issued by RSPA would be required to be maintained at all fixed sites where the person engages in one or more of the activities subject to the registration requirement.

Fourth, a copy of the 'Certificate of Registration' issued by RSPA would be required to be carried on board all vehicles, trains, vessels or aircraft used to transport the hazardous materials or shipments of hazardous materials subject to the proposed registration

program. Each carrier using such a vehicle would be required to ensure that a copy of the 'Certificate of Registration' issued by RSPA is readily available, upon request, to enforcement personnel in the event of an accident, incident, or inspection. As an option, RSPA may consider allowing registration certificates to be maintained at a centralized location for particular industries or modes where maintaining the certificates on board would prove impractical.

Fifth, all persons subject to the registration program would be required to make all records and information pertaining to the information contained in the registration statement available to enforcement personnel upon request.

RSPA is proposing to require that a person who is not a resident of the United States and who is subject to registration requirements of the HMTA must designate an agent for service of process who is a resident of the United States. The designated U.S. agent would then be required to file the registration statement and pay the fees for, and on behalf of, the non-U.S. resident. It should also be noted that importers and freight forwarders or forwarding agents may be subject to registration requirements of the HMTA because of their own activities.

J. Amendments to the Registration Statement

For each of the proposed alternatives for assessing the registration fee discussed above, a registrant whose name and principal place of business changed during the year would be required to notify RSPA of the change in writing as soon as practicable but not later than 30 days after such change, and submit an amended registration statement to RSPA. It is not expected that the processing of such amendments would be subject to a processing fee. All other changes to the information contained in the original registration statement would be made annually when the registration statement would be renewed.

However, under the proposed alternative providing the option of basing the registration fee on the number of activities which the person carries out and for which a registration statement is necessary, amendments to the registration statement would be required to be made at any time during the registration year the registrant decided to apply to RSPA to register for one or more of the activities not covered by the initial registration statement or any previous amendment.

K. Content of the Registration Statement/Information to Be Collected

For purposes of illustration, proposed registration statement forms (see appendix #1 for the option fee form and appendix #2 for the flat fee form) are found at the end of this Notice.

Comments are requested on the form and content of these illustrative registration statements, and on other information that might be required of registrants.

L. Obtaining a Copy of the Registration Form

In order to facilitate the registration process, RSPA anticipates mailing blank copies of the registration statement form to each shipper, carrier, package manufacturer, freight forwarder and other person it has on its mailing lists. RSPA also will make a reproducible copy of the registration form available to trade and industry associations and others who could provide copies to persons in the hazardous materials transportation industry. RSPA wishes to emphasize that this proposed action is for the convenience of those who may be subject to the registration requirement and in no way affects the obligation of persons subject to the registration requirement to obtain and submit the registration statement to RSPA in a timely fashion in the event that a blank form is not received from RSPA. Blank forms will be published in the **Federal Register** and also will be available from RSPA.

Section-By-Section Analysis

A new Subpart G, "Registration of Hazardous Materials Shippers, Carriers, and Packaging Manufacturers" would be added to part 107.

Section 107.601 describes the scope of the proposed registration and fee collection regulations. The proposed requirements would apply to shippers and carriers whose hazardous materials transportation activities involve certain specific types of hazardous materials and to certain packaging manufacturers who produce packagings certified for use in hazardous materials transportation. Under section 106(c)(1) of the HMTA, each person who transports or causes to be transported or shipped in commerce more than 25 kg (55 pounds) of Division 1.1, 1.2, or 1.3 (Class A or Class B explosives) materials in a motor vehicle, rail car, or transport container is required to file a registration statement. RSPA proposes to interpret "transport container" to mean "freight container". Therefore, when more than 25 kg of a Division 1.1, 1.2, or 1.3 material is transported in a freight container in any mode, it would be subject to the registration requirements.

Section 107.604 provides a definition for "registration year", as it would apply in this proposed subpart.

Section 107.606 provides exceptions from the proposed requirements. The proposed registration and fee assessment requirements would not apply to Federal agencies, State agencies, political subdivisions of States, employees of those agencies, or hazmat employees, except for owner-operators.

Section 107.608 outlines the proposed general registration requirements. Proposed paragraph (a) prohibits a person required to file a registration statement from engaging in any hazardous materials transportation activities for which a registration statement is required unless that person has complied with all applicable registration requirements. Proposed paragraph (b) addresses submission of registration statements, and paragraph (c) requires submission of amendments if a change in the registrant's name, place of business, or activities for which registration is required occurs during the registration year. Paragraph (d) requires foreign entities subject to the registration requirements to use a designated agent.

Section 107.612 Two proposed fee schedules—an option fee schedule (Alternative 1) and a flat fee schedule (Alternative 2)—are presented separately. Under the option fee schedule, persons (except foreign persons and newly-formed companies) required to file a registration statement with RSPA would have the choice of deciding whether to file the registration statement either on the basis of the number of activities which the person carries out and for which filing of a registration statement is required, or on the basis of the person's annual net income.

Alternative 1 includes the following proposed rules. Proposed paragraph (a)(1) contains a fee schedule (including a $50 processing fee) based on a registrant's annual net income. Proposed paragraph (a)(2) outlines requirements and contains a fee schedule (including a $50 processing fee) based on the number of activities which a person carries out. Proposed paragraphs, (b), (c), and (d) would require registration statements from persons having negative annual net incomes, foreign entities, and newly-formed companies, respectively. As provided in paragraphs (c) and (d), respectively, foreign entities and newly-formed companies would not have the

option of choosing either fee schedule, but would be required to file the registration statement based on number of activities.

Alternative 2 proposes a flat fee for each person required to register. Under the proposed flat fee schedule, any person subject to the registration requirements would be required to pay an annual fee of $800, which includes a $50 processing fee.

Section 107.616 proposes payment procedures and penalties. Proposed paragraphs (a) through (c) outline the procedures to be followed when submitting the initial or amended registration statement and payment.

Section 107.620 outlines proposed recordkeeping requirements. Proposed paragraph (a) would require copies of the registration statement and the Certificate of Registration to be maintained at a person's principal place of business. Proposed paragraph (b) would require a copy of the Certificate of Registration to be maintained at all fixed sites where applicable activities occur. The Certificate of Registration would be required to be carried on board all transport vehicles, trains, vessels, and aircraft, as provided in proposed paragraph (c). Proposed paragraph (d) would require registrants to provide any relevant records and information requested by DOT.

III. Regulatory Analyses

A. Executive Order 12291 and DOT Regulatory Policies and Procedures

These proposed regulations have been evaluated in accordance with existing regulatory policies and are considered to be non-major under Executive Order 12291. The proposed regulations are considered to be significant under section 5(a)(2)(f) of DOT's Regulatory Policies and Procedures ("the Procedures") (44 FR 11034; February 26, 1979) because they implement a substantial regulatory program or change in policy. In accordance with section 10(e) of the Procedures, RSPA has determined that a draft Regulatory Analysis is not required because the proposed regulations do not meet any of the criteria mandating the preparation of such an analysis. As a result, in accordance with section 10(e), RSPA has prepared a draft Regulatory Evaluation which includes an analysis of the economic consequences of the proposed regulation and an analysis of its anticipated benefits and impacts. The draft Regulatory Evaluation is available for review in the Dockets Unit. Comments are requested on the estimated costs and benefits of this proposed rule.

B. Regulatory Flexibility Act

RSPA certifies that this proposal will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The proposed rule may apply to as many as 100,000 shippers, carriers, and packaging manufacturers. Under section 117A(h)(3) of the HMTA, the amount of the annual fee which may be collected from a person required to register with RSPA may not be less than $250 and may not exceed $5,000. Because of the required minimum fee of $250, RSPA's ability to treat small entities differently is restricted. RSPA believes that the majority of persons required to register will qualify for a registration fee that is substantially less than $1,000. RSPA expects that the impact of this fee on small business entities will be minimal, and without significant economic consequences. The proposal will have no direct impact on small units of government.

RSPA specifically requests comments on the impact of this rule on small business concerns. In particular, RSPA requests comments on whether the scope of the proposed exceptions for small business concerns involved in the manufacturing, fabricating or marking of UN or DOT specification packaging or DOT exemption packaging should be limited or broadened.

C. Executive Order 12612

The proposed rule has been reviewed in accordance with Executive Order 12612 ("Federalism"). As noted above the States are "persons" under the HMTA, but are specifically exempted from the requirement to file a registration statement. The regulations proposed herein have no substantial effects on the states, on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various levels of government. Thus, in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted.

D. Paperwork Reduction Act

Under section 106(c)(13) of the HMTA, the information management requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) do not apply to this proposed rule.

E. Regulatory Information Number (RIN)

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

F. National Environmental Policy Act

RSPA has evaluated these proposed regulations in accordance with its procedures for ensuring full consideration of the environmental impacts of RSPA actions as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, executive orders, and DOT Order 5610.1c. These proposed regulations meet the criteria that establish this as a non-major action for environmental purposes.

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR parts 107 and 171 would be amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 would continue to read as follows:

Authority: 49 App. U.S.C. 1421(c); 49 App. U.S.C. 1802, 1806, 1808–1811; 49 App. U.S.C. 1653(d), 1655; 49 CFR part 1.

2. Subpart G would be revised to read as follows:

Subpart G—Registration of Hazardous Materials Shippers, Carriers, and Packaging Manufacturers

Sec.

Subpart G—Registration of Hazardous Materials Shippers, Carriers, and Packaging Manufacturers

§ 107.601 Scope.

The registration and fee collection requirements of this subpart apply to the following persons:

(a) Any person who offers or transports in commerce:

(1) Any highway route-controlled quantity of a Class 7 (radioactive) material, as defined in 49 CFR 173.403;

(2) More than 25 kg (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material (see 49 CFR 173.50) in a motor vehicle, rail car or freight container;

(3) More than one liter (1.06 quarts) per package of a material extremely toxic by inhalation (Division 2.3, Hazard Zone A or Division 6.1, Packing Group I, Hazard Zone A) (see 49 CFR 173.115 and 173.132);

(4) A hazardous material in a bulk packaging, container, or tank having a capacity equal to or greater than 13,248 L (3,500 gallons) or more than 13.24 cubic meters (468 cubic feet); or

(5) A shipment of 2,170 kg (5,000 pounds) or more of a hazardous material or hazardous materials for which placarding of a vehicle, rail car, or freight container is required.

(b) Any person who manufactures, fabricates, marks, retests or reconditions a UN or DOT specification or DOT exemption packaging, except for a small business concern, as described in 13 CFR 121.601, that manufactures, fabricates, or marks only boxes or bags, or both.

(c) For purposes of this subpart, a person includes each separate corporation that engages in an activity under paragraph (a) or (b) of this section.

§107.604 Definition.

Registration year means June 1—May 31 of each year.

§107.606 Exceptions.

The following are excepted from the requirements of this subpart:

(a) Agencies of the Federal Government;

(b) Agencies of States;

(c) Agencies of political subdivisions of States;

(d) Employees of those agencies in paragraphs (a), (b), and (c) of this section with respect to their official duties; and

(e) Hazmat employees, unless the hazmat employee is the owner-operator of a motor vehicle which transports in commerce hazardous materials.

§107.608 General registration requirements.

(a) Each person required to file a registration statement must submit a complete and accurate DOT Form [Number to be Assigned in Final Rule] not later than May 31 of each year, or the date the person becomes subject to this subpart, whichever is later.

(b) After June 30, 1992, no person required to file a registration statement may transport or cause to be transported or shipped hazardous materials, or engage in the manufacture, fabrication, or marking of UN or DOT packagings, unless such person has on file in accordance with § 107.620 a current annual registration statement in accordance with the requirements of this subpart.

(c) A registrant whose name or principal place of business has changed during the registration year must notify RSPA of that change by submitting an amended registration statement not later than 30 days after the change. If, at any time during the registration year, a registrant intends to engage in one or more activities not covered by the initial registration statement, the registrant must submit an amendment to the registration statement to RSPA and receive an amended Certificate of Registration from RSPA prior to engaging in any activity not covered by the initial registration statement.

(d) If the registrant is not a resident of the United States, the registrant must include in the registration statement the name and address of a permanent resident of the United States designated in accordance with § 107.7 to serve as agent for service of process.

Alternative One for § 107.612

§107.612 Option fee schedule.

(a) Each person subject to the requirements of this subpart must pay an annual fee (including a processing fee) based on either:

(1) The annual net income as follows:

Person's annual net income	Fee [1]
Less than $500,000	$300
$500,001 to $1,000,000	550
$1,000,001 to $2,500,000	1,050
$2,500,001 to $5,000,000	2,550
$5,000,001 or more	5,050

[1] Required annual registration and processing fee.

(2)(i) The number of activities which the person carries out and for which filing of a registration statement is required:

Number of activities engaged in	Fee [1]
One	$300
Two	550
Three	1,050
Four	2,050
Five	4,050
Six	5,050

[1] Required annual registration and processing fee.

(ii) Each time during the registration year that a registrant wishes to amend its number of activities, it must file with RSPA an amendment to the initial registration statement. With each amendment, the registrant must pay an additional fee, which is the net difference between the initial fee paid to RSPA and the fee associated with the new number of specific activities for which an amendment is submitted, and an additional $50 processing charge.

(b) Each person subject to the requirements of this subpart having a negative annual net income must file a registration statement and pay an annual fee (including a processing fee).

(c) Each foreign person subject to the requirements of this subpart must pay an annual fee (including a processing fee) based on the number of activities which the person carries out and for which filing of a registration statement is required.

(d) A newly-formed company subject to the requirements of this subpart must pay an annual fee (including a processing fee) based on the number of activities which the person carries out and for which filing of a registration statement is required.

Alternative Two for § 107.612

§ 107.612 Flat fee schedule.

Each person subject to the requirements of this subpart must pay an annual fee (including a processing fee) of $800.

§ 107.616 Payment procedures.

(a) Each person subject to the requirements of this subpart must mail the registration statement and payment in full to [Name and Address of Lockbox Bank to be Added in Final Rule] on or before May 31 of each year, or the date the person becomes subject to the requirements of this subpart, whichever is later. A registrant required to file an amended registration statement must mail it and payment in full to the same address.

(b) Payment must be in U.S. dollars by certified check, cashier's check, or money order payable to the U.S. Department of Transportation and identified as payment for the "Hazmat Registration Fee" or by a VISA or

MasterCard credit card authorization completed and signed on the registration statement.

(c) Payment must correspond to the applicable amount indicated in § 107.612.

§ 107.620 Recordkeeping requirements.

(a) Each person subject to the requirements of this subpart must maintain at its principal place of business for a period of three years from the date of issue:

(1) A copy of the registration statement filed with RSPA;

(2) A copy of the certified or cashier's check, money order, or a copy of the credit card billing statement showing payment for the person's registration and processing fee; and

(3) The Certificate of Registration issued to the registrant by RSPA.

(b) Each person who offers a hazardous material for transportation in commerce subject to the requirements of this subpart must maintain a copy of its Certificate of Registration issued by RSPA at all fixed sites where the person engages in one or more activities subject to the requirements of this subpart. The Certificate of Registration must be made available, upon request, to enforcement personnel.

(c) Each carrier subject to the requirements of this subpart must carry a copy of its Certificate of Registration issued by RSPA on board all vehicles, trains, vessels, and aircraft used to transport the hazardous materials or shipments of hazardous materials subject to the requirements of this subpart. The Certificate of Registration must be made available, upon request, to enforcement personnel.

(d) Each person subject to this subpart must furnish its Certificate of Registration (or a copy thereof) and all other records and information pertaining to the information contained in the registration statement to an authorized representative or special agent of DOT upon request.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

3. The authority citation for part 171 would continue to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804 1805, 1808, 1818; 49 CFR part 1.

§ 171.2 [Amended]

4. In § 171.2, the following changes would be made:

a. In paragraph (a), after the phrase "(including §§ 171.11, 171.12, and 176.11)", the phrase "and subparts F and G of part 107 of this chapter" is added.

b. In paragraphs (b) and (d), after the phrase "in accordance with this subchapter", the phrase "and in accordance with Subparts F and G of part 107 of this chapter" is added.

Issued in Washington DC on October 8, 1991, under the authority delegated in 49 CFP part 1.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

Note: These are appendices to the preamble of the document and will not appear in the Code of the Federal Regulations.

Appendices to Preamble—Fee Schedule Forms

BILLING CODE 4910-60-M

APPENDIX 1

HAZARDOUS MATERIALS REGISTRATION FOR THE PERIOD JUNE 1, 1992, TO MAY 31, 1993

__ Initial Registration __ Amendment to Registration

APPLICABILITY: IF BETWEEN JUNE 1, 1992, AND MAY 31, 1993, THE COMPANY FILING THIS REGISTRATION STATEMENT ENGAGES IN ANY OF THE HAZARDOUS MATERIALS ACTIVITIES LISTED IN ITEM 4B, THIS REGISTRATION STATEMENT MUST BE SUBMITTED AND THE COMBINED REGISTRATION AND PROCESSING FEE INDICATED IN ITEM 4A OR 4B MUST BE PAID.

1. **Company Name** _____

2. **Principal Place of Business** Street Address _____ City _____ County _____ State ____ Zip Code _____-____ Country _____

3. **Registrant's OMC Motor Carrier Census Number or Reporting Railroad Alphabetic Code** _____

4. **Annual Registration Fee.** The registrant may determine its combined registration and processing fee either from the registrant's annual net income or from the number of hazardous materials transportation activities that the registrant intends to engage in during the registration period. Use EITHER the fee schedule given in Alternative A OR that given in Alternative B to determine the fee. **NOTE:** Foreign shippers or carriers, and registrants who were not in business during the prior calendar or fiscal year, must use Alternative B.

SELECT ALTERNATIVE A OR B:

___ **Alternative A: Annual Net Income.** The combined registration and processing fee may be determined on the basis of the registrant's annual net income during the preceding calendar or fiscal year. If this alternative is chosen, a Certificate of Registration will be issued by RSPA authorizing the registrant to engage in all the activities (a through f) listed in Item 4B.

If the registrant's Annual Net Income was	Pay this Amount
Less than $500,000	$ 300.00
$500,000 - $1,000,000	$ 550.00
$1,000,001 - $2,500,000	$1,050.00
$2,500,001 - $5,000,000	$2,550.00
More than $5,000,000	$5,050.00

OR

___ **Alternative B: Activities.** The combined registration and processing fee may be determined by the number of hazardous materials transportation activities that the registrant intends to engage in during the registration period. If this alternative is chosen, a Certificate of Registration will be issued by RSPA authorizing the registrant to engage in only those activities marked below. Mark all activities in which the registrant intends to engage during the registration period.

__ a. Offer or transport in commerce any highway route-controlled quantity of a Class 7 (radioactive) material.
__ b. Offer or transport in commerce more than 25 kilograms (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material.
__ c. Offer or transport in commerce more than 1 liter (1.1 quarts) per package of a hazardous material extremely toxic by inhalation (Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A).
__ d. Offer or transport in commerce a hazardous material in a bulk packaging, container, or tank having a capacity equal to or greater than 13,248 liters (3,500 gallons) or more than 13.24 cubic meters (468 cubic feet).
__ e. Offer or transport in commerce a shipment of 2,170 kilograms (5,000 pounds) or more of a hazardous material or hazardous materials for which placarding of a vehicle, rail car, or freight container is required.
__ f. Manufacture, fabricate, or mark a UN or Department of Transportation specification or DOT exemption packaging for use in the transportation in commerce of hazardous materials.

If the number of activities marked in Item 4B is ONE, pay	$ 300.00
If the number of activities marked in Item 4B is TWO, pay	$ 550.00
If the number of activities marked in Item 4B is THREE, pay	$1,050.00
If the number of activities marked in Item 4B is FOUR, pay	$2,050.00
If the number of activities marked in Item 4B is FIVE, pay	$4,050.00
If the number of activities marked in Item 4B is SIX, pay	$5,050.00

Method of Payment

Total Amount Enclosed:_____

__ Cashier's Check __ Certified Check __ Money Order

__ Credit Card: __ VISA __ MasterCard Card Number_____ Expiration Date: _____

Name as it appears on the card _____

Authorized Signature _____ _____

Cardholder acknowledges ordering goods or services in the amount of the Total shown hereon and agrees to perform the obligations set forth in the Cardholder's agreement with the issuer.

5. **HISTORIC SURVEY INFORMATION: Hazardous Materials Activities, and States in Which Business was Transacted In 1991.** Mark each hazardous material activity the registrant engaged in between January 1 and December 31, 1991. For each marked activity, also mark each capacity (shipper, carrier, importer, or freight forwarder) in which the registrant served. Also circle the 2-letter state abbreviation for every state in which the registrant engaged in any of these activities. A list of states and their abbreviations is given below.

__ A. Offered or transported in commerce any highway route-controlled quantity of a Class 7 (radioactive) material.
__ 1. Shipper __ 2. Carrier __ 3. Importer __ 4. Freight Forwarder

AK AL AR AS AZ CA CO CT DC DE FL GA GU HI ID IL IN IA KS KY LA MA MD ME MI MN MO MP
MS MT NC ND NE NH NJ NM NV NY OH OK OR PA PR RI SC SD TN TX UT VI VT VA WA WV WI WY

__ B. Offered or transported in commerce more than 25 kilograms (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material.
__ 1. Shipper __ 2. Carrier __ 3. Importer __ 4. Freight Forwarder

AK AL AR AS AZ CA CO CT DC DE FL GA GU HI ID IL IN IA KS KY LA MA MD ME MI MN MO MP
MS MT NC ND NE NH NJ NM NV NY OH OK OR PA PR RI SC SD TN TX UT VI VT VA WA WV WI WY

__ C. Offered or transported in commerce more than 1 liter (1.1 quarts) per package of a hazardous material extremely toxic by inhalation (Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A).
__ 1. Shipper __ 2. Carrier __ 3. Importer __ 4. Freight Forwarder

AK AL AR AS AZ CA CO CT DC DE FL GA GU HI ID IL IN IA KS KY LA MA MD ME MI MN MO MP
MS MT NC ND NE NH NJ NM NV NY OH OK OR PA PR RI SC SD TN TX UT VI VT VA WA WV WI WY

__ D. Offered or transported in commerce a hazardous material in a bulk packaging, container, or tank having a capacity equal to or greater than 13,248 liters (3,500 gallons) or more than 13.24 cubic meters (468 cubic feet).
__ 1. Shipper __ 2. Carrier __ 3. Importer __ 4. Freight Forwarder

AK AL AR AS AZ CA CO CT DC DE FL GA GU HI ID IL IN IA KS KY LA MA MD ME MI MN MO MP
MS MT NC ND NE NH NJ NM NV NY OH OK OR PA PR RI SC SD TN TX UT VI VT VA WA WV WI WY

__ E. Offered or transported in commerce a shipment of 2,170 kilograms (5,000 pounds) or more of a hazardous material or hazardous materials for which placarding of a vehicle, rail car, or freight container is required.
__ 1. Shipper __ 2. Carrier __ 3. Importer __ 4. Freight Forwarder

AK AL AR AS AZ CA CO CT DC DE FL GA GU HI ID IL IN IA KS KY LA MA MD ME MI MN MO MP
MS MT NC ND NE NH NJ NM NV NY OH OK OR PA PR RI SC SD TN TX UT VI VT VA WA WV WI WY

__ F. Manufactured, fabricated, or marked a UN or Department of Transportation specification or DOT exemption packaging for use in the transportation in commerce of hazardous materials.

AK AL AR AS AZ CA CO CT DC DE FL GA GU HI ID IL IN IA KS KY LA MA MD ME MI MN MO MP
MS MT NC ND NE NH NJ NM NV NY OH OK OR PA PR RI SC SD TN TX UT VI VT VA WA WV WI WY

__ G. Did not engage in any of the activities listed in A through F between January 1 and December 31, 1991.

TWO-LETTER STATE ABBREVIATIONS

Alabama	AL	Georgia	GA	Maryland	MD	New York	NY	South Dakota	SD
Alaska	AK	Guam	GU	Massachusetts	MA	North Carolina	NC	Tennessee	TN
American Samoa	AS	Hawaii	HI	Michigan	MI	North Dakota	ND	Texas	TX
Arizona	AZ	Idaho	ID	Minnesota	MN	N. Mariana Is.	MP	Utah	UT
Arkansas	AR	Illinois	IL	Mississippi	MS	Ohio	OH	Vermont	VT
California	CA	Indiana	IN	Missouri	MO	Oklahoma	OK	Virgin Islands	VI
Colorado	CO	Iowa	IA	Montana	MT	Oregon	OR	Virginia	VA
Connecticut	CT	Kansas	KS	Nebraska	NE	Pennsylvania	PA	Washington	WA
Delaware	DE	Kentucky	KY	Nevada	NV	Puerto Rico	PR	West Virginia	WV
Dist. Columbia	DC	Louisiana	LA	New Hampshire	NH	Rhode Island	RI	Wisconsin	WI
Florida	FL	Maine	ME	New Jersey	NJ	South Carolina	SC	Wyoming	WY
				New Mexico	NM				

6. **Certification of Information.** I certify that I have personally examined and am familiar with the information submitted in this document and that the submitted information is true, accurate, and complete.

Signature _____ Date _____

Name _____ Phone (____)____-_____

Title _____

FALSE STATEMENTS MAY VIOLATE 18 U.S.C. 1001.

FOR DOT USE ONLY

REFERENCE NUMBER: _____

Check Amount _____ Date of Deposit _____

APPENDIX 2

HAZARDOUS MATERIALS REGISTRATION FOR THE PERIOD JUNE 1, 1992, TO MAY 31, 1993

__ Initial Registration __ Amendment to Registration

APPLICABILITY: IF BETWEEN JUNE 1, 1992, AND MAY 31, 1993, THE COMPANY FILING THIS REGISTRATION STATEMENT ENGAGES IN ANY OF THE FOLLOWING ACTIVITIES, THIS REGISTRATION STATEMENT MUST BE SUBMITTED AND THE COMBINED REGISTRATION AND PROCESSING FEE INDICATED IN ITEM 4 MUST BE PAID:

A) OFFERS OR TRANSPORTS IN COMMERCE ANY HIGHWAY ROUTE-CONTROLLED QUANTITY OF A CLASS 7 (RADIOACTIVE) MATERIAL;
B) OFFERS OR TRANSPORTS IN COMMERCE MORE THAN 25 KILOGRAMS (55 POUNDS) OF A DIVISION 1.1, 1.2, OR 1.3 (EXPLOSIVE) MATERIAL;
C) OFFERS OR TRANSPORTS IN COMMERCE MORE THAN ONE LITER (1.1 QUARTS) PER PACKAGE OF A MATERIAL EXTREMELY TOXIC BY INHALATION (DIVISION 2.3, HAZARD ZONE A, OR DIVISION 6.1, PACKING GROUP I, HAZARD ZONE A);
D) OFFERS OR TRANSPORTS IN COMMERCE A HAZARDOUS MATERIAL IN A BULK PACKAGING, CONTAINER, OR TANK HAVING A CAPACITY EQUAL TO OR GREATER THAN 13,248 LITERS (3,500 GALLONS) OR MORE THAN 13.24 CUBIC METERS (468 CUBIC FEET);
E) OFFERS OR TRANSPORTS IN COMMERCE A SHIPMENT OF 2,170 KILOGRAMS (5,000 POUNDS) OR MORE OF A HAZARDOUS MATERIAL OR HAZARDOUS MATERIALS FOR WHICH PLACARDING OF A VEHICLE, RAIL CAR, OR FREIGHT CONTAINER IS REQUIRED;
F) MANUFACTURES, FABRICATES, OR MARKS A UN OR DEPARTMENT OF TRANSPORTATION SPECIFICATION OR DOT EXEMPTION PACKAGING FOR USE IN THE TRANSPORTATION IN COMMERCE OF HAZARDOUS MATERIALS.

1. **Company Name** _____

2. **Principal Place of Business** Street Address _____ City _____

County _____ State ____ Zip Code _____-____ Country _____

3. **Registrant's OMC Motor Carrier Census Number or Reporting Railroad Alphabetic Code (if applicable)** _____

4. **Annual Registration Fee.** The combined registration and processing fee is $1,000.

Method of Payment

Total Amount Enclosed:_____

__ Cashier's Check __ Certified Check __ Money Order

__ Credit Card: __ VISA __ MasterCard Card Number_____ Expiration Date: _____

Name as it appears on the card _____

Authorized Signature _____

Cardholder acknowledges ordering goods or services in the amount of the Total shown hereon and agrees to perform the obligations set forth in the Cardholder's agreement with the issuer.

---

5. **HISTORIC SURVEY INFORMATION: Hazardous Materials Activities, and States in Which Business was Transacted in 1991.** Mark each hazardous material activity the registrant engaged in between January 1 and December 31, 1991. For each marked activity, also mark each capacity (shipper, carrier, importer, or freight forwarder) in which the registrant served. Also circle the 2-letter state abbreviation for every state in which the registrant engaged in any of these activities. A list of states and their abbreviations is given at the end of this section.

__ A. Offered or transported in commerce any highway route-controlled quantity of a Class 7 (radioactive) material.
__ 1. Shipper __ 2. Carrier __ 3. Importer __ 4. Freight Forwarder

AK AL AR AS AZ CA CO CT DC DE FL GA GU HI ID IL IN IA KS
KY LA MA MD ME MI MN MO MP MS MT NC ND NE NH NJ NM NV NY
OH OK OR PA PR RI SC SD TN TX UT VI VT VA WA WV WI WY

__ B Offered or transported in commerce more than 25 kilograms (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material.
__ 1. Shipper __ 2. Carrier __ 3. Importer __ 4. Freight Forwarder

AK AL AR AS AZ CA CO CT DC DE FL GA GU HI ID IL IN IA KS
KY LA MA MD ME MI MN MO MP MS MT NC ND NE NH NJ NM NV NY
OH OK OR PA PR RI SC SD TN TX UT VI VT VA WA WV WI WY

__ C. Offered or transported in commerce more than 1 liter (1.1 quarts) per package of a hazardous material extremely toxic by inhalation (Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A).
__ 1. Shipper __ 2. Carrier __ 3. Importer __ 4. Freight Forwarder

AK AL AR AS AZ CA CO CT DC DE FL GA GU HI ID IL IN IA KS
KY LA MA MD ME MI MN MO MP MS MT NC ND NE NH NJ NM NV NY
OH OK OR PA PR RI SC SD TN TX UT VI VT VA WA WV WI WY

__ D. Offered or transported in commerce a hazardous material in a bulk packaging, container, or tank having a capacity equal to or greater than 13,248 liters (3,500 gallons) or more than 13.24 cubic meters (468 cubic feet).
__ 1. Shipper __ 2. Carrier __ 3. Importer __ 4. Freight Forwarder

AK AL AR AS AZ CA CO CT DC DE FL GA GU HI ID IL IN IA KS
KY LA MA MD ME MI MN MO MP MS MT NC ND NE NH NJ NM NV NY
OH OK OR PA PR RI SC SD TN TX UT VI VT VA WA WV WI WY

__ E. Offered or transported in commerce a shipment of 2,170 kilograms (5,000 pounds) or more of a hazardous material or hazardous materials for which placarding of a vehicle, rail car, or freight container is required.
__ 1. Shipper __ 2. Carrier __ 3. Importer __ 4. Freight Forwarder

AK AL AR AS AZ CA CO CT DC DE FL GA GU HI ID IL IN IA KS
KY LA MA MD ME MI MN MO MP MS MT NC ND NE NH NJ NM NV NY
OH OK OR PA PR RI SC SD TN TX UT VI VT VA WA WV WI WY

__ F. Manufactured, fabricated, or marked a UN or Department of Transportation specification or DOT exemption packaging for use in the transportation in commerce of hazardous materials.

AK AL AR AS AZ CA CO CT DC DE FL GA GU HI ID IL IN IA KS
KY LA MA MD ME MI MN MO MP MS MT NC ND NE NH NJ NM NV NY
OH OK OR PA PR RI SC SD TN TX UT VI VT VA WA WV WI WY

__ G. Did not engage in any of the activities listed in A through F between January 1 and December 31, 1991.

****

TWO-LETTER STATE ABBREVIATIONS

Alabama	AL	Georgia	GA	Maryland	MD	New York	NY	South Dakota	SD
Alaska	AK	Guam	GU	Massachusetts	MA	North Carolina	NC	Tennessee	TN
American Samoa	AS	Hawaii	HI	Michigan	MI	North Dakota	ND	Texas	TX
Arizona	AZ	Idaho	ID	Minnesota	MN	N. Mariana Is.	MP	Utah	UT
Arkansas	AR	Illinois	IL	Mississippi	MS	Ohio	OH	Vermont	VT
California	CA	Indiana	IN	Missouri	MO	Oklahoma	OK	Virgin Islands	VI
Colorado	CO	Iowa	IA	Montana	MT	Oregon	OR	Virginia	VA
Connecticut	CT	Kansas	KS	Nebraska	NE	Pennsylvania	PA	Washington	WA
Delaware	DE	Kentucky	KY	Nevada	NV	Puerto Rico	PR	West Virginia	WV
Dist. Columbia	DC	Louisiana	LA	New Hampshire	NH	Rhode Island	RI	Wisconsin	WI
Florida	FL	Maine	ME	New Jersey	NJ	South Carolina	SC	Wyoming	WY
				New Mexico	NM				

****

6. **Certification of Information.** I certify that I have personally examined and am familiar with the information submitted in this document and that the submitted information is true, accurate, and complete.

Signature _____ Date _____

Name _____ Phone (___)___-_____

Title _____

FALSE STATEMENTS MAY VIOLATE 18 U.S.C. 1001.

_____

FOR DOT USE ONLY

REFERENCE NUMBER: _____

Check Amount _____ Date of Deposit _____

[FR Doc. 91-24614 Filed 10-8-91; 1:23 pm]
BILLING CODE 4910-60-C

federal register

Thursday
October 10, 1991

Part VI

The President

Federal Register

Federal Register
Vol. 56, No. 197
Thursday, October 10, 1991

Presidential Documents

Title 3—

The President

Proclamation 6351 of October 8, 1991

Mental Illness Awareness Week, 1991

By the President of the United States of America

A Proclamation

Once shrouded in mystery—and spoken of only in sad, hushed tones—mental illness is becoming more widely understood. Thanks to dramatic advances in basic biomedical research and in the behavioral sciences, we have been able to achieve significant improvements in the diagnosis, treatment, and prevention of emotional and mental disorders. Scientific progress has also helped to alleviate the stigma associated with mental illness, as more and more Americans learn about its origins and effects. Nevertheless, because millions of Americans suffer from some kind of mental disorder, we pause this month to reflect on this major public health problem and to renew our commitment to better mental health.

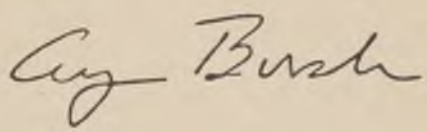
Mental illness can affect people of any age, race, or walk of life. For example, many elderly Americans are vulnerable to depression and to other illnesses that can threaten their independence and security. Many youngsters who are affected by phobias or other mental disorders continue to suffer when their symptoms are mistaken for passing behavioral problems. Left untreated, mental illness not only leads to lost productivity in school and in the workplace but also damages its victims' self-esteem and personal relationships.

Recognizing the high costs of mental illness to individuals and to the Nation, scientists, physicians, and other concerned parties throughout the Federal Government and the private sector are working hard to achieve further progress in brain research. Just 2 years ago, as an expression of our support for their efforts, I signed into law House Joint Resolution 174, which called for the observance of the 1990s as the "Decade of the Brain." This resolution underscored the importance of continuing brain research and signalled our firm commitment to better mental health in the United States.

In recognition of the importance of educating the public about mental illness and the needs of those who suffer from it, the Congress, by Senate Joint Resolution 156 has designated the week beginning October 6, 1991, as "Mental Illness Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of October 6 through October 12, 1991, as Mental Illness Awareness Week. I invite all Americans to observe this week with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 91-24727
Filed 10-9-91; 11:54 am]
Billing code 3195-01-M

Presidential Documents

Executive Order 12776 of October 8, 1991

Extending the National Defense Service Medal to Members of the Reserve Components of the Armed Forces of the United States During the Period of the Persian Gulf Crisis

By the authority vested in me as President by the Constitution and the laws of the United States of America, and as Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

Section 1. Under such regulations as the Secretaries of the Army, Navy, and Air Force, or the Secretary of Transportation with regard to the Coast Guard when it is not operating as a service in the Navy, may severally prescribe, and subject to the provisions of this order, the National Defense Service Medal, as established by Executive Order No. 10448, as amended, may be awarded to members of the Reserve Components of the Armed Forces of the United States, as delineated by section 261 of title 10 of the United States Code.

Sec. 2. The National Defense Service Medal, as authorized in the first section of this order, may be awarded to an individual who was a member in good standing of a Reserve Component of the Armed Forces of the United States during a period designated by the Secretary of Defense as the period of the Persian Gulf crisis for the purposes of this order.

Sec. 3. The National Defense Service Medal may be awarded posthumously to a member of a Reserve Component of the Armed Forces of the United States who satisfies the requirements for such award under this order and under regulations promulgated pursuant to section 1 of this order.

THE WHITE HOUSE,
October 8, 1991.

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Billing code 3195-01-M

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Thursday, October 10, 1991

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S. 1106/Pub. L. 102–119

Individuals with Disabilities Education Act Amendments of 1991. (Oct. 7, 1991; 105 Stat. 587; 22 pages) Price: $1.00

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Designating October 1991 as "National Breast Cancer Awareness Month". (Oct. 7, 1991; 105 Stat. 609; 2 pages) Price: $1.00

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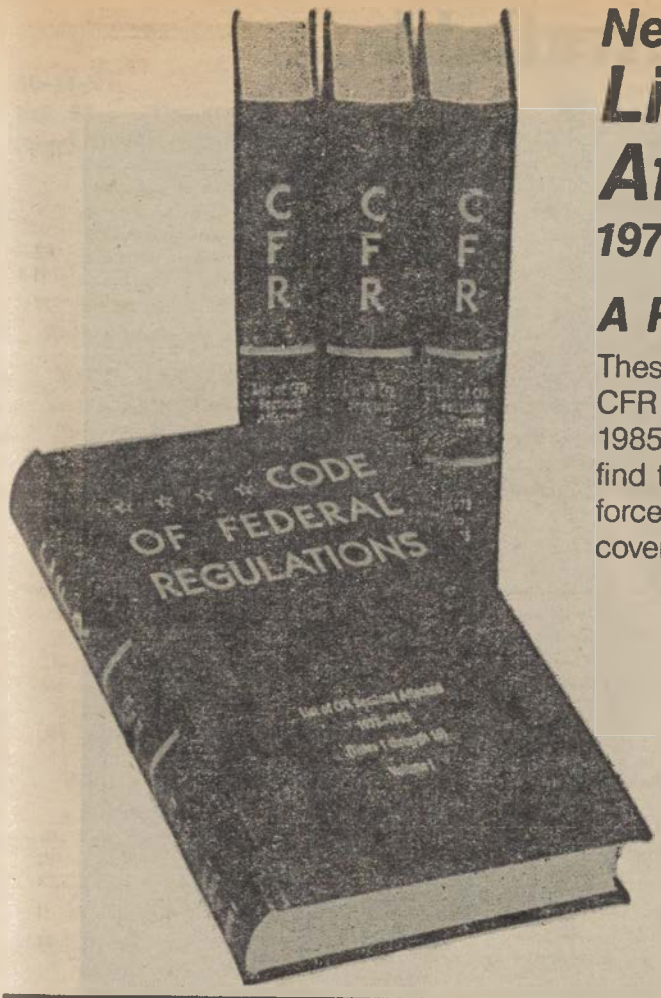

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